

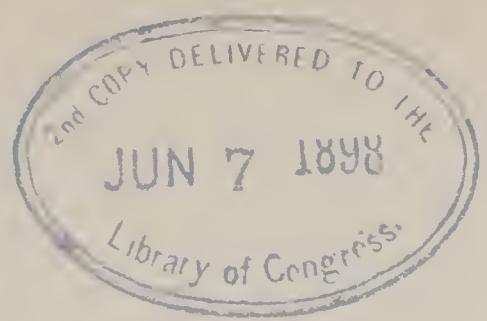
The  
Civil Government  
of  
Texas  
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THE  
GOVERNMENT OF THE PEOPLE  
OF THE STATE OF  
TEXAS

BY  
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THIS book is intended especially for use in high schools. The purpose kept steadily in view in writing it is to give a description of the origin and growth of the State of Texas and the present working of its government that shall be both easily understood, and also, in a manner at least, logical and scientific in its arrangement. To present a subject capable of such treatment in any other way, especially in a work written for young students, is a pedagogical crime. Whether the object has been accomplished is a question that critics might ask fairly enough ; but that the task has been properly set can be denied by none. Teachers that may undertake to use the book are therefore urged to do so with constant reference to the Topical Analysis given in the APPENDIX.

That a prospective citizen should be taught something about the government in which, according to the principle of popular sovereignty, he must soon have a more or less important share, is a proposition so evidently true as to make its assertion seem like a waste of argumentative energy. That he should learn to think of it as an agency, created for the public benefit, and not as his master or his enemy, and to consider himself a participant in its deserts, whether of praise or blame, is equally true. It is only such a feeling that will afford any security against the failure of popular self-government. The seed of general

suspicion and distrust of the people's representatives, sown in the soil of general ignorance of civic duty, can have no other harvest than the tyranny of the demagogue or the anarchic rule of the mob. If this lesson has not rippled from my pen in every paragraph, it has none the less been singing all the while through my heart and brain.

In conclusion, I would gratefully acknowledge important assistance in gathering and shaping the material for this work given by the various heads of departments of the State government, or their chief clerks, and especially by Professors Robert L. Batts, David Franklin Houston, and John C. Townes and Instructor Lester Gladstone Bugbee, to each of whom I am indebted for valuable suggestions.

G. P. G.

UNIVERSITY OF TEXAS, }  
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CHAPTER	PAGE
I. INTRODUCTORY . . . . .	7
II. HISTORICAL SKETCH OF TEXAS . . . . .	11
III. THE GOVERNMENT OF TEXAS . . . . .	38
IV. THE STATE GOVERNMENT . . . . .	56
V. LOCAL GOVERNMENT . . . . .	81
<hr/>	
THE STATE CONSTITUTION . . . . .	91
APPENDIX . . . . .	154
INDEX . . . . .	158

## ILLUSTRATIONS.

THE STATE FLAG . . . . .	<i>Frontispiece.</i>
THE ALAMO . . . . .	11
LA SALLE . . . . .	12
STEPHEN F. AUSTIN . . . . .	23
SAM HOUSTON . . . . .	30
THE GREAT SEAL OF THE STATE OF TEXAS . . . . .	38
THE STATE CAPITOL AT AUSTIN . . . . .	57





THE  
CIVIL GOVERNMENT  
OF  
TEXAS.

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CHAPTER I.

INTRODUCTORY.

**1. Society.**—None of us lives to himself alone. Each can best understand and explain himself, as well as others, only as a part of humanity at large. Most of the experiences and acts which make up our lives are the result of our relations to the rest of mankind. These relations may be of blood, of friendship, of simple acquaintance, of business, or of any other kind ; but, whatever their nature, they serve to hold men together in great organized masses or bodies. Such a mass or body is a society.

Societies differ from each other in various respects, as in race, in customs, in religion, in employments, in education, and in general refinement. What the characteristics of a society are depends partly upon the people who compose it and partly upon the land from which it lives. Whether it is pastoral, agricultural, mining, or manufacturing depends mainly upon the land ; while the degree of freedom and the rate of progress find their explanation principally in the people. How land and people have worked upon each other so as to give any society its peculiar traits is shown by its history.

**2. The State, Society Politically Organized.**—The political organization, or that whose function is control of the society or the regulation of its relations with other societies, is the State. In the most highly civilized countries the people are now politically organized and govern themselves. Civil government deals with the form and functions of this organization.

**3. The Constitution.**—It is usually the case that in organizing the State, the framework and the fundamental principles of the government are established by means of a constitution. This is commonly made by a convention composed of delegates elected by the people for that purpose.<sup>1</sup> The constitution is intended to be a condensed expression of the will of the people as to how they shall be governed, made in the most direct way possible. Of course, however, the delegates in convention would likely place in the constitution only those principles which the people have already accepted, either as parts of their traditions or as the teachings of their experience. For example, the legislature would no doubt be made to consist of two houses, mainly for the reason that this arrangement, in one form or another, has prevailed so long and so generally. Again, there would probably be some provision to regulate the creation and control of private corporations, such as railways or telegraph companies, because the people have been led by experience to believe such regulation to be necessary. But traditions and political or social experience are matters of history. Therefore the constitution of a State is to be explained finally by the history of the people who make it.

**4. The Statutes.**—After the form and fundamental principles of the government have been established by the constitution according to the will of the people, their

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<sup>1</sup> Sometimes constitutions are put into effect after being adopted simply by the conventions that make them, but in most cases they are also ratified by a vote of the people.

will is further expressed in laws or statutes made by their representatives. These laws or statutes are simply detailed regulations of government intended primarily, like the constitution itself, to "establish justice" in the relations of men with each other, and ultimately to "promote the general welfare." They must be so made as to agree with the constitution, which is the paramount expression of the people's will. In the United States, the constitution and laws of any particular State must also agree with the Federal Constitution.<sup>1</sup>

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<sup>1</sup> That is, they cannot enforce what is forbidden by the Federal Constitution.

## CHAPTER II.

### HISTORICAL SKETCH OF TEXAS.

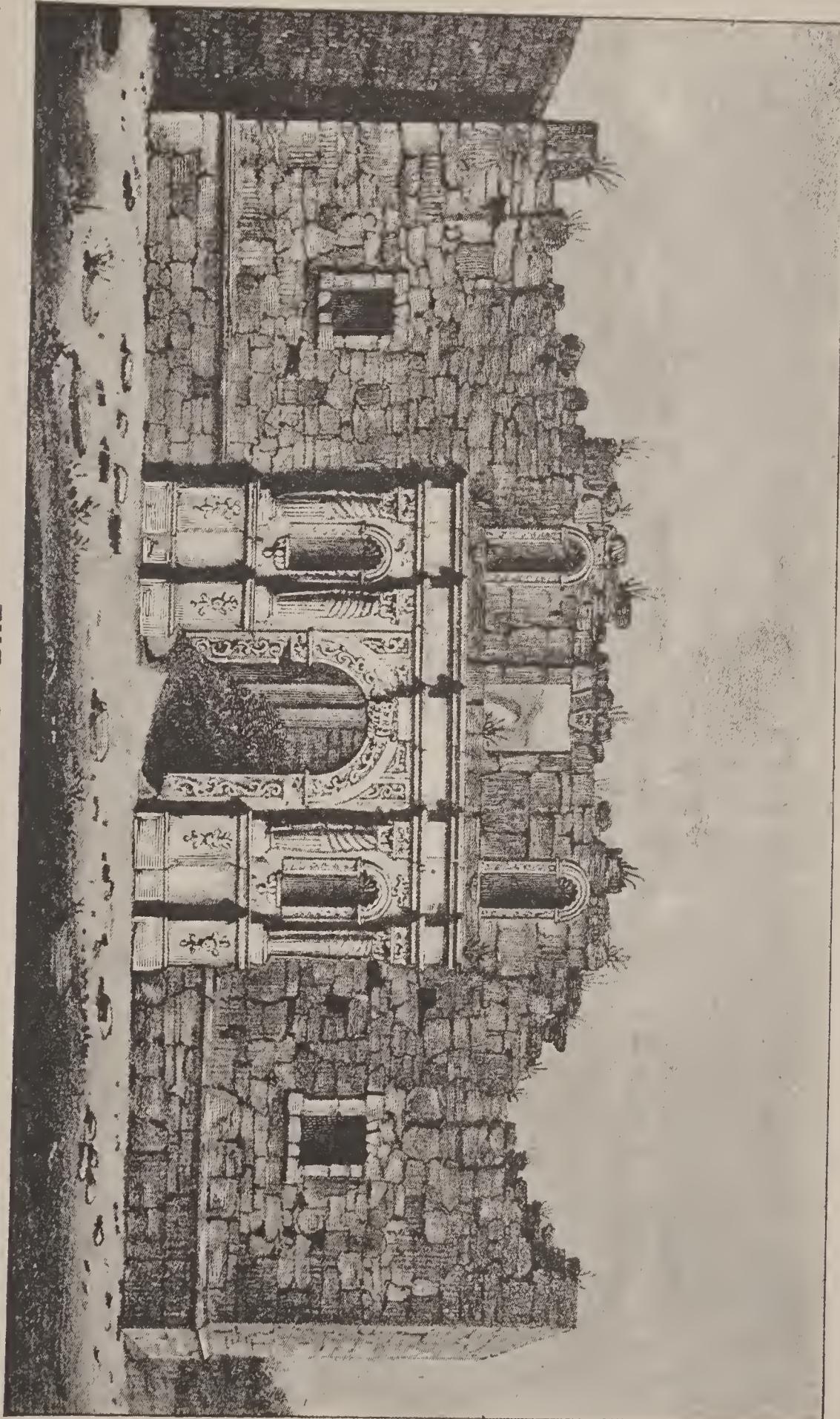
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#### I. THE BEGINNINGS.

**5. Slow Colonizing Work of Spain.**—For about two centuries succeeding the discovery of America the territory which has become Texas remained in possession of the Indians. Although the Spanish had established their dominion in Mexico in less than thirty years after the landing of Columbus, they were very slow in pushing their settlements northeast beyond the Rio Grande. Only in what is now New Mexico had they early begun to settle across the river. Not until their rivals, the French, appeared to be on the point of colonizing and securing possession of the country did they show any energy in making good their claim to it.

**6. The Earliest Colonies.**—The beginnings of the colonization of Texas date from near the end of the seventeenth century. In 1682 the Spanish made a settlement at Isleta on the Rio Grande, in the extreme western part. This is the oldest town in the State, but the germs of European civilization planted in that quarter did not spread. At that time the Spanish claimed all the territory lying round the Gulf of Mexico, and were in actual possession of a considerable part of it; but on the northern coast they had left a wide gap between their settlements in Florida and those in Mexico, without a single colony to secure their claim. In this unsettled portion the French were the first to establish themselves. In

THE ALAMO.



1685 a French expedition under La Salle planted a small colony in the southeastern part of the present State of Texas, on the Lavaca River near the Gulf. The colony was named Fort St. Louis. It was soon destroyed by the Indians, but the Spanish were stimulated by the news of its foundation to a little more activity in their own interests. They tried in a feeble way to forestall the French and secure possession of the country for Spain; but the few settlements they made were weak and short-lived, nor did they extend far enough east to cover the territory whose loss was threatened. In the valley of the Mississippi the French attained soon afterward a permanent hold through their colony of Louisiana, the history of which as a French possession is continuous from 1699 to 1762.



LA SALLE.

**7. Missions and Presidios.**—The settlements made by the Spanish in Texas during this period cannot properly be called colonies. They were not

composed, like the English settlements along the Atlantic—which were real colonies,—of groups of men with families, who meant to begin life over in the new country to which they had come, and to win a subsistence by their own efforts from the soil. They were “missions,” which were of a religious nature, and which were often supported by military posts known as “presidios.” The principal element of the mission was a small body of priests or “padres,” with the addition perhaps of a few lay brethren, and its

prime object was supposed to be the Christianizing of the Indians. A shifting and uncertain feature of it was the converted Indians, who nominally belonged to it, but were most of them constantly coming and going. Frequently there was attached directly to the mission a guard of a few soldiers called an "escolta." It was but too often the case that the good work done by the padres was neutralized and rendered fruitless by the reckless and outrageous conduct of the soldiers.

**8. The Name Texas.**—Until the struggle of French and Spanish for the territory between their respective possessions of Louisiana and Mexico had begun, the country stretching from the Sabine to the Rio Grande and now called Texas had no separate name. The designation Florida was so used in the period immediately subsequent to the discovery by Ponce de Leon in 1513, that it may be considered as reaching west beyond the Rio Grande; but before the founding of Fort St. Louis it had retreated too far east to be properly so applied. The contest for possession, however, soon fixed a name on the part in dispute. Among the settlements made by the Spanish shortly after the destruction of the French post on the Lavaca was the mission of San Francisco de Las Tejas. It was in the valley of the Neches, some distance westerly from the present town of Nacogdoches. The name Tejas was taken from the tribe of Indians among whom the mission was located. It was used by the Spanish as the proper name of the tribe, but was perhaps more properly some descriptive term which the members applied to themselves. Very naturally it passed to the district occupied by the tribe, or that in the neighborhood of the mission, and finally to the whole Spanish province.<sup>1</sup> Texas is simply an old form of the word which has prevailed in English.

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<sup>1</sup> The province was known also as Nuevas Filipinas.

**9. Possession Secured for Spain by Missions.**—In 1714 Crozat, who had obtained from Louis XIV. a grant of trading privileges in Louisiana, sent an agent, St. Denis, through Texas to see if it was not possible to establish trade relations with that province. This excited the Spanish more than the foundation of Fort St. Louis, and they soon afterward began the movement which resulted in securing Texas for Spain. They founded a number of missions in two main groups, one of them, the western, being in the neighborhood of the present city of San Antonio and southeast of it toward the Gulf, and the other, the eastern, in the valleys of the Trinity, Neches, and Sabine. From this time on, although the French do not give up their claim to Texas, the boundary between their territory and that of the Spanish, so far as it is determined by actual possession, shows a tendency to fix itself somewhere in the vicinity of the Sabine River, or the present line between Texas and Louisiana. Subsequent to this wave of mission-founding, which begins in 1716, until the revolution of 1836, Texas should be thought of as a province of Spain or of Mexico.

**10. Slight Hold of the Spanish.**—Although the Spanish were able to maintain their claim to Texas against the French, they never secured the firm hold upon it which thorough colonization would have given them. How uncertain their dominion was appears from events which occurred soon after those mentioned above. In 1719 the French took possession of the most easterly Spanish mission, which was in the valley of the Sabine. Thereupon, the Spanish abandoned the whole eastern group and retreated to the western. It seems likely that they would have surrendered this group also if the French had displayed any energy in following up their first blow; but the latter did not advance beyond the Trinity, and in 1721 the Spanish plucked up courage enough to reoccupy,

as they were allowed to do peaceably, most of the missions of the eastern group.

**11. Slow Progress of Civilization.**—During the long period of its existence under Spanish and Mexican rule Texas made little progress. The faithful padres struggled hard to infuse Roman Catholic Christianity into the mass of savagery round them; but their efforts were often rendered vain by the misconduct of the soldiers attached to the missions, by political opposition, and by Indian outbreaks. They were devoted and self-sacrificing men, and their record is in many respects a noble one; but Texas was to get her real civilization at last from another quarter.

## II. THE PROVINCE.

### THE SPANISH-MEXICAN PERIOD.

**12. Coahuila and Tamaulipas.**—Southwest of Texas lay the Spanish province of Coahuila, the history of which begins with the founding of a number of Spanish settlements about ten years before the erection of Fort St. Louis. The first of them was the mission of San Miguel de Aguayo, established in 1675. Coahuila is now one of the States of the Mexican Republic. Its history was for a long time closely linked with that of Texas. Between Coahuila and the Gulf, and also adjoining Texas on the southwest, lay a section in which the natives remained unsubdued three-quarters of a century longer. This was conquered by the Spanish general Escandon, in 1748-49, and became finally the province of Tamaulipas.

**13. Texas Made a Separate Province.**—From 1691 Coahuila and Texas were both under the same governor, who was himself subject to the Spanish viceroy in Mexico. This arrangement continued for some thirty years, after which Texas obtained a separate governor.

**14. The Southwestern Boundary.**—After Texas became independent and the question as to its proper limits rose into importance, Mexico claimed that Coahuila ex-

tended northeast to the Medina River, a branch of the San Antonio, and Tamaulipas to the Nueces. The actual boundary in both cases was a wide strip of land lying between these rivers and the Rio Grande, and containing no settlements of either province upon which a claim to possession could be based. Both provinces, however, being at first under the same general government, and neither caring much about this unoccupied border strip, the matter of their common boundary offered no occasion for a dispute.

**15. The Northeastern Boundary.**—It was a matter of more importance to determine how far northeastward Texas extended, because on this side it joined Louisiana, *i. e.* Spanish territory was met by French. Over the proper location of this border there was from time to time some wrangling, but nothing more serious. In 1762, however, Louisiana west of the Mississippi was ceded by France to Spain. The provinces separated by the uncertain line were now both Spanish, and as long as they remained so there was but little concern about where it should settle.

**16. The Northwestern Boundary.**—The main boundary question belonging to the early history of Texas was that as to where the division line between French and Spanish territory should be fixed. From the nature of the movement which brought the two rivals for possession in conflict, the French advancing southwestward from Louisiana and the Spanish northeastward from Mexico, it will be seen that there was no struggle over the northwestern boundary. It was on this side that the extent of the province was most indefinite.

Thus it appears that the limits of Texas were at first very uncertain. They have been at length established with almost absolute exactness; but the process has involved a vast amount of domestic friction in the United States, besides causing serious trouble with Spain and helping to bring on the war of 1846-48 with Mexico.

**17. The Provincias Internas.**—In 1776 a number of the North Mexican provinces, including Coahuila and Texas, were formed into a government independent of Mexico and ruled by a governor responsible directly to Spain. The portion thus separated received the name of the Provincias Internas. In 1785 the provinces composing it were divided into three groups, an eastern, a central, and a western. The eastern group, to which Texas belonged, and the central were placed each under a military commandant, and the western under a general commandant, to whom the two others were in some degree subject. At the same time the authority of the viceroy in Mexico over all three was partially restored. In 1787 the three groups were consolidated into two, which were independent of each other and were officially named the Eastern and the Western. In 1793 the two groups were joined, four provinces were cut off and left subject to the viceroy in Mexico, while the remainder, including Coahuila and Texas, became independent of him. Texas had its own governor, whose official conduct was subject to review by superior authorities at different places; but these authorities were so far away, and the system of appeals was so ineffective, that the governor was practically absolute.

**18. Dispute with the United States about the North-eastern Boundary.**—In 1800 Spain ceded Louisiana back to France, and in 1803 France sold it to the United States. This brought the boundary question that had passed from sight in 1762 again into notice. The United States purchased Louisiana with the understanding that it should have the same limits as when it belonged to France, previous to 1762. But it will be remembered that these limits had never been clearly defined. Now they separated Spanish territory from that of a people more to be feared in America than the French, and there was more necessity than ever for ascertaining just where they should be. The United States claimed, on account of La Salle's settlement

at Fort St. Louis, that Louisiana properly extended to the Rio Grande. The settlement proposed to Spain would have been only temporary. It was to leave a strip covering most of the disputed section, which should for twenty years be regarded as neutral. The United States proposed first that this strip should be between the Sabine and the Colorado; then, claiming more, that it should be between the Colorado and the Rio Grande; but in 1806, when troops from both sides were gathered on the Sabine and a conflict seemed imminent, the question was settled for the time by establishing the proposed neutral strip east of the Sabine, between that and the Arroyo Hondo, a tributary of Red River. This strip, being under the jurisdiction of neither nation, soon became a refuge for outlaws and a plague to both Louisiana and Texas. Finally, in 1819, when the United States bought Florida from Spain, it was agreed in the treaty that the boundary of Texas should be fixed at the Sabine. More exactly described, the line determined by the treaty ran north with the Sabine from its mouth to latitude  $32^{\circ}$ , thence due north to Red River, thence west with that river to the one-hundredth meridian, thence north on that meridian, etc.

**19. The Coming of the Anglo-Americans.**—Meanwhile a movement had originated which was the real beginning of the Texas of to-day. This was the coming of the Anglo-Americans.<sup>1</sup> It began as a violent breaking-in process, but after a time, when the policy of Spain and Mexico had become more liberal, passed into peaceful colonization. The first, or filibustering, phase of the movement will be more clearly understood by recalling the fact that it is almost coincident with the period in which the Mexicans had begun to cultivate aspirations for inde-

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<sup>1</sup> This term is applied to the element that Texas attracted, previous to its independence, from the United States. They are so-called because they were mostly of English antecedents.

pendence of Spain, and is mainly in sympathy with, or seeks to take advantage of, this feeling.

**20. Filibustering Inroads.**—As soon as the limits of Texas were reached by the United States growing southwestward, Spain paid the inevitable penalty of leaving so attractive a portion of her territory so long unsettled. From about 1800 until 1821 she was constantly harassed with invasions of the province by bands of adventurers who came mostly from the United States.

**21. Nolan's Expedition.**—The first of these was organized at Natchez in 1800. The number of men engaged in it was twenty-one, and they were led by an Irish trader named Philip Nolan. Its alleged purpose was to catch wild horses, which were plentiful in Texas at that time, but it has been claimed by some that the real object was to hunt for gold. The expedition penetrated to the Brazos and established a camp on that river; but in 1801 it was attacked by a much stronger force of Spaniards, and Nolan and one of his men were killed and the rest captured.

**22. Magee's Invasion.**—In 1812, Augustus Magee, who had been a lieutenant in the United States army, and Bernardo Gutierrez, a refugee from Mexico, led a more successful invasion of Texas. Its avowed object was to assist the movement for independence of Spain, which was then going on in Mexico. This movement had begun with the revolt led by Hidalgo in 1810, and the next year it reached Texas. A rising of the revolutionists at San Antonio in January, 1811, was successful for a time, but was put down in March. In 1812, however, they were stirred to new hope and activity by the coming of Magee and Gutierrez with a force which had been gathered in Louisiana. The number of Anglo-Americans engaged in this affair reached at its maximum only 850; but they penetrated to San Antonio, defeated the Spanish troops and captured the Spanish governor, and actually maintained an independent government for nearly five months. Finally, however,

they were defeated by the commandant-general of the Eastern Internal Provinces, at the battle of the Medina, August 18, 1813, and the Spanish authority was restored.

**23. The Galveston Island Republic.**—In 1816 the Mexican republicans set up a government, organized as completely as possible under the circumstances, on Galveston Island. The great object of it was to promote privateering against Spanish vessels. In this it was successful enough, and the island became also headquarters for an illegal slave trade with the Southern States of the American Union through Louisiana. In 1817 the republicans abandoned the island for a time in order to engage their whole force in a raid on the royalists of the interior beyond the Rio Grande, and immediately afterward it was taken possession of by Lafitte with his band of freebooters. In order to facilitate their piratical operations the newcomers also kept up the forms of a regular government. They became the terror of the Gulf, especially to Spanish vessels, and remained so until they were dislodged by an order from the authorities at Washington.

**24. "Le Champ d'Asile."**—In 1817 some French officers who had fought under Napoleon sought to found a colony on a grant of land in Alabama made them by the United States government. That effort failed, and in 1818 Lallemand, one of the generals in the party, led 120 men to a spot on the Trinity River not far from its mouth, and tried to establish there a settlement, which was named Champ d'Asile. Permission had previously been asked of the Spanish government, but no answer had been given. The colony maintained a feeble existence for a time, but when the Spanish were on the point of expelling the settlers by force they abandoned it.

**25. Long's Invasion.**—The treaty of 1819, which recognized the claim of Spain to Texas, was much objected to in the United States, especially in the South. This

feeling obtained expression at Natchez in the organization of another filibustering expedition. It was headed by James Long, who in June, 1819, led seventy-five men to Nacogdoches. There, with the help of a number of the settlers, he formed a government and declared Texas an independent republic. He then went to Galveston Island in order to secure the co-operation of Lafitte. Failing in this he returned to Nacogdoches to find that the republicans had just been driven out by the Spanish. He saved himself by flight, and in 1821 made another attempt to start a revolution in Texas. This time he captured La Bahia on the coast, but was soon made prisoner and sent to San Antonio, and later to the City of Mexico. By this time Mexican independence, for which he claimed to be fighting, had been gained, and he was set at liberty.

**26. Independence of Mexico, and Union of Coahuila and Texas.**—The struggle for independence which had begun in Mexico in 1810 was continued with more or less energy till 1817, after which it almost completely died away. But the news of the revolution in Spain which reached Mexico in 1820 started the movement anew, and this time it was successful. Mexico became independent in 1821, and in 1824 it was organized into a federal republic, and Coahuila and Texas were joined as a single State.

**27. The Anglo-American Colonization.**—So long as the dispute with the United States concerning the possession of Texas was yet undetermined, Spain, although she was unable to settle the province effectually herself, was unwilling that it should be colonized by those who showed the strongest disposition to occupy it. These were the Anglo-Americans. While Spain was ready to receive emigrants from other parts of the world, she feared this element and sought to exclude it. This was natural enough; for she understood how restless such people as those living in the United States and accustomed to republican government would be under Spanish rule, and

she saw that to let them fill up Texas would be, even though they acknowledged allegiance to Spain, risking seriously her dominion over it. What happened afterward showed that her fears were well founded. As soon as the Anglo-Americans obtained a secure hold on the province, it tore itself away from its uncongenial political associations and ultimately passed to the United States. This was, in fact, inevitable.

**28. The Grant to Moses Austin.**—In 1820, however, after the United States had given up its claim to Texas, and the revolutionists, who had been causing so much trouble were nearly suppressed, Moses Austin sought permission to introduce into the province a colony of three hundred families from the United States. Austin was a man of fine character, a native of Connecticut, who had become in his youth a citizen of Virginia. Reverses in business influenced him to emigrate in 1799 to the Spanish province of Louisiana, and settle in that part of it which afterward became Missouri. More business trouble in 1818 led him to form the plan of beginning life anew for the second time, and with this in view he made the application which has been mentioned. He had, when he first settled in Louisiana, been naturalized as a Spanish subject, which gave him the greater hope for success in the enterprise.

Austin went to San Antonio and stated his object to the governor of Texas, but was ordered, in reply, to leave the province at once. Through the influence, however, of Baron de Bastrop, a Prussian officer who had been in Spanish service and was then alcalde in San Antonio, the order was revoked, and the petition was forwarded with favorable recommendations from the provincial authorities to the commandant-general of the Eastern Internal Provinces at Monterey. The petition was granted in January, 1821, on condition that the colonists introduced should be Roman Catholics, or should agree to become so

before entering Texas, should furnish certificates of good character, should be obedient to the Spanish government, and should bear arms against all its enemies. Meanwhile Austin had returned to Missouri. In June, 1821, soon after hearing that his petition had been granted, he died of disease brought on by the hardships of his journey to Texas, and left the accomplishment of his design to his son, Stephen Fuller Austin.

**29. The Colony Planted by Stephen F. Austin.**—Stephen F. Austin was one of the most admirable characters of that group that helped to make Texas. Though he was of an essentially refined nature, he possessed in a high degree the qualities required for success in the task he had undertaken. With rare energy and perseverance, as well as with great courage and tact, he carried out the plans of his father. He went to work under the grant which he inherited, being officially recognized by Governor Martinez of Texas. In December, 1821, his colonists began to arrive, and established their first settlement on the Brazos. His grant fixed no definite limits for the territory he was to occupy, and he chose the country between the Lavaca and San Jacinto rivers. Over this section the colonists scattered themselves, as the land attracted each, far more widely than would seem to have been either convenient or safe; but in 1825 Austin received special permission to settle other families upon the strips remaining between the



STEPHEN F. AUSTIN.

tracts which had been taken. The result of this was to make the area of his grant far more extensive than it might otherwise have been.

**30. Confirmation of the Grant.**—Serious difficulties were encountered in getting the colony fairly on its feet. The grant of January, 1821, had been made by the regularly constituted Spanish authorities; but from that year until 1824 was a period of rapid revolutions in Mexico. Provisional government, regency, empire, centralized republic, and federal republic followed each other in quick succession. In the course of these changes the Internal Provinces of the North were combined with the others under one government having its central authority in the City of Mexico; and early in 1822 Austin found it necessary to make the journey thither in order to have his grant confirmed. After waiting about a year he secured the confirmation he wished, but before he could get away from the city the government was changed by another revolution, and he had his work to do over. This was accomplished, however, with but little difficulty, and in August, 1823, he was back in Texas ready to continue his work.

**31. The Government of the Colony.**—During Austin's absence the colony had declined greatly, but his return gave it new life. For the next few years the main troubles which he had in dealing with it were such as related to its government, which, until it was more regularly organized in 1828, devolved almost wholly upon himself. The power over the colony conferred upon him by the Mexican authorities was, except as to the punishment of high crimes, practically absolute. Such laws as were to prevail within its borders he must make, and whatever government it was to have he must provide for. He had not only to make the laws, but as supreme judge he had to supervise their administration, and as actual governor to execute them. It is not strange, under the circumstances, that there was

much complaint of him from the colonists, for they were not accustomed to arbitrary rule. He was unjustly accused of fleecing them, when he was really losing money by his enterprise. He had trouble for a time with criminals who sought to live in the colony, but by energetic measures these were soon disposed of. In spite of complaints and peculiar difficulties in his way, Austin used his extensive powers with such wisdom that he gradually silenced objection and carried his undertaking to a successful issue.

**32. The Empresario System.**—In 1823 and 1824 the federal government of Mexico passed general colonization laws, and that of 1824 empowered each State to make a special law for itself. So in 1825 the congress of Coahuila and Texas adopted a statute providing that any one who, with the permission of the State, should settle a certain number of immigrant families upon its waste lands should receive a large grant from the public domain. The men who undertook to introduce colonies under this law were called *empresarios* or contractors. They soon obtained grants covering almost the whole of Texas, and by 1830 the population of the State, exclusive of Indians, had grown to about 20,000.

**33. Troubles of the Mexican Government with the Anglo-Americans.**—The difference between the Anglo-Americans and the Spanish-Mexicans now began to assert itself, and it was soon apparent that the former could not live peaceably under the government of the latter. It was easy to find matter of disagreement. The United States showed by keeping up negotiations for the purchase of Texas that, in spite of the treaty of 1819, they still hoped to extend their boundaries southwestward. The Mexicans naturally suspected the Texan colonists of a desire to promote that result. The breach thus produced was widened by a series of legislative enactments. The constitution of Coahuila and Texas, promulgated in 1827,

forbade the introduction of slaves after six months from its publication and provided for the gradual extinction of slavery within the State. A little later the congress of the State took measures looking toward the accomplishment of that object. These were very obnoxious to the colonists, who depended a great deal on slaves for labor, and who regarded all legislation against slavery as unfriendly to themselves. In 1829 a decree which had a tendency to nullify certain free trade privileges that had been granted them was passed by the congress. In the same year a decree of the general government abolished slavery throughout the republic of Mexico; but energetic protest secured the exemption of Texas. One thing gave rather less trouble than might have been expected. The colonists before coming in had furnished certificates that they were Roman Catholics, when in fact they were not; but, since their conduct was marked at the outset by a disregard of all religious observance, they escaped serious difficulty on this point.

**34. The Fredonian War.**—One of the *empresario* colonies was that of Hayden Edwards, which was established on lands around Nacogdoches, granted to him in 1826. In seeking to organize a system of local government for his colony he came in conflict with the native Mexicans previously settled in that quarter. The natives were sustained by the Mexican authorities of the State. The colonists were prosecuted and the grant was annulled; and finally, in 1827, they with their Indian allies rose in open insurrection. They established an independent republic, which they named Fredonia. It was their expectation that all the Anglo-Americans in the State would join them, and if this had happened Texas might have become free from Mexico several years sooner than it did. But Austin did not think the move justifiable nor wise. He issued a proclamation condemning it severely and calling upon the people of his colony to aid in suppressing it. De-

prived of the help they had expected, the Fredonians were soon crushed.

**35. Restrictive Policy of Mexico toward the Colonists.**—From 1830 on, the policy of the Mexican government toward the Anglo-Americans was strongly restrictive. In that year a decree was passed forbidding further colonization of Mexican territory by adjacent States, as well as further importation of slaves. A virtual military government was set up in Texas, and the colonists were soon made to feel the burden of real Mexican rule. Repressive commercial regulations were harshly executed by the Mexican authorities. This was borne very impatiently, trouble arose in the coast districts, and at Anáhuac and Velasco there was arined and successful resistance.

**36. The Mexican Troops Withdrawn from Texas.**—In January, 1832, a revolution in favor of the constitution of 1824, which had established a federal republic, was begun by the republicans of Mexico headed by Santa Anna. In June, 1832, the commandant at Tampico, who was supporting Santa Anna, sent a force of four hundred men to Texas to punish the Anglo-Americans for their resistance to the authorities at Anáhuac; but the general in command of the force became convinced of their loyalty and did not molest them. Early in the course of the revolution the Mexican troops in Texas nearly all marched out to join Santa Anna. The one commander that held to the other party was driven with his men from Nacogdoches by the colonists, who at the time favored Santa Anna themselves. From August, 1832, Texas was, for a while, almost completely relieved of the presence of Mexican soldiery.

**37. Demands of the Colonists.**—Free from the tyranny that had vexed them since 1830, the colonists now sought to provide against its renewal. In two conventions held at San Felipe de Austin, the capital of Austin's colony,

one in October, 1832, and the other in April, 1833, they discussed their grievances, and in the convention of 1833 they decided to petition the Mexican government for the separation of Texas from Coahuila, and in anticipation of that arrangement they framed a constitution for Texas. Three commissioners were appointed to present the petition, but Austin was the only one of them that went to Mexico. When he reached there the war which Santa Anna had started was still going on, and Austin made little progress with his business. Disappointed by this, after he had waited two and a half months he wrote to the municipal authorities at San Antonio advising the formation of a separate government for Texas. A little later the war was ended by the triumph of Santa Anna, who then had the petition considered by a council of ministers. The separation was not granted, but, in order to satisfy the Anglo-Americans, the government adopted several measures favorable to them, one of which was the repeal of the law of 1830 against colonization by that element. Austin then started back, but the Mexican authorities heard of his letter to San Antonio and sent after him an order for his arrest. The result was that he spent about a year and a half in prison and did not reach his colony again till September, 1835. Meanwhile, Santa Anna, who had ended his game of republican reform by making himself dictator and thus blasting the hopes of the Texans for the constitution of 1824, had had the Texas question again under consideration. He decided that Texas might become a territory, but not a separate State, and that he would send four thousand men to San Antonio for the protection of the coast and frontier.

**38. Resistance to Santa Anna's Dictatorship.**—The two States of Zacatecas, and Coahuila and Texas continued to hold out against the dictatorship of Santa Anna after the others had all yielded. In May, 1835, the resistance of Zacatecas ended in a crushing defeat, but that of Texas

was still kept up and grew into the revolution that made it an independent republic. The culmination of the affair was hastened by the impatience of the colonists toward the Mexican authorities, and especially by their driving away the force stationed at Anáhuac to protect the port. The war feeling grew rapidly, the progress of it being marked by proclamations and warnings on the part of the Mexican commanders, and by resolutions varying from firm and pacific to strong and hostile passed by various councils and meetings on the part of the colonists. It was when matters were in this condition that Santa Anna released Austin and sent him home in the hope that he might assist in quelling the spirit of insurrection as he had done in the case of the Fredonian war. But Austin felt that the time had come for the Texans to act for themselves, and he advised a general consultation of the colonists, for which arrangements were already in progress.

**39. Outbreak of the Revolution.**—Before this consultation could be held the struggle had begun. Soon after Austin's return a small force of Mexicans was sent to take a cannon from the people of Gonzales, about sixty miles east of San Antonio, but was easily driven away. A few days later Gen. Cos reached San Antonio with reinforcements for the Mexican troops stationed there, and in this neighborhood about 350 Texans gathered under Austin. Meanwhile Goliad, southeast of San Antonio in the country near the coast, had been captured by a few Texas men, and the war had fairly opened.

**40. The Consultation and the First Provisional Government.**—When Austin took command of the troops sent against Cos, a kind of central agency for the scattered colonies was set up by the appointment of a council to act for all; but on November 3, 1835, the general consultation assembled at San Felipe, and, after pledging the loyalty of Texas to Mexico when the federal union should be properly restored under the constitution of 1824, estab-

lished a provincial government. This was composed of a governor, a lieutenant-governor, and a council. The governor and lieutenant-governor were elected by the consultation, and each of the delegations present from the various municipalities chose from its own number one member of the council. Austin was sent at the head of a commission of three to secure recognition from the United States, and Sam Houston was appointed commander-in-chief of the Texas troops.

**41. Sam Houston.**—The new general was a man most remarkable in his character and previous career. He had

in his youth fought under General Jackson against the Indians, and had afterward become a member of Congress from Tennessee, and later still governor of the State. Then he resigned the governorship and lived for years among the Cherokee Indians, becoming thoroughly identified with them. In 1832 he appeared in Texas just as circumstances were ripening toward the revolution which



SAM HOUSTON.

developed fully in 1835, and of which he soon became the leader. He was first chosen commander of the troops in Eastern Texas, but subsequently took the place of Austin as commander-in-chief.

**42. The War with Mexico.**—In December, 1835, San Antonio was captured by the Texans. After this the governor and council fell into discord, and the Mexicans in about three months regained all the ground they had lost and more. In February, 1836, Santa Anna entered San Antonio with an army which soon numbered 5000, and the

Texans retired to the Alamo, a fortified mission-house beside the town. They were, with the addition of a small party that reinforced them after the Mexicans had come, a few less than 200, and were commanded by Col. W. B. Travis. On March 6th the Alamo was stormed by the Mexicans. All the Texan soldiers except five died fighting. These five were captured and were immediately put to death in the presence of Santa Anna.<sup>1</sup> The Mexican loss is not known, but estimates of it vary from three hundred to sixteen hundred. A little later the Mexicans recovered the settlements along the coast. Col. J. W. Fannin, who commanded the Texans at Goliad, tried to retreat from the place, but was entrapped by the Mexicans and after a severe conflict surrendered. The prisoners were at once marched back to Goliad and slaughtered by order of Santa Anna, who after the fall of the Alamo pushed on eastward toward Austin's colony. Houston, who since his appointment as commander-in-chief had been seeking to organize the army in that quarter, had finally established his headquarters at Gonzales, and had gone thither March 11th, just in time to hear of the disaster at San Antonio. The next day he began to retreat. The Mexicans were soon close behind. Houston halted about a week on the Colorado and about two weeks on the Brazos, and at last gave battle at the San Jacinto, April 21st. The Mexicans were utterly routed and Santa Anna captured, and in a few weeks all the invading forces had recrossed the Rio Grande.

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<sup>1</sup> A letter written by Travis during the siege of the Alamo contains the words, boldly written and underlined, "*I shall never surrender or retreat.*" In this brief utterance, which breathes the character and spirit of the colonists, is the best explanation of the resulting independence of Texas.

### III. THE REPUBLIC.

#### THE INDEPENDENT PERIOD.

**43. The Declaration of Independence.**—While the campaign which ended with the battle of San Jacinto was going on, a convention of delegates elected by the colonists assembled at Washington on the Brazos, March 1, 1836, and on the following day proclaimed the independence of Texas. In commemoration of this event and of the battle of San Jacinto, March 2 and April 21 have been observed by the Republic and the State as holidays.

**44. The Constitution of the Republic.**—The constitution adopted by this convention was in its general outlines very similar to that of the United States. The chief executive was called president, and the legislative assembly, which consisted of two houses, was called congress. Each department had wider functions and more extensive powers than in a State of the Union, because in the latter the States had delegated a share of their authority to the Federal government. The common law of England was made the rule of decision in all criminal cases, and congress was required to adopt that system, with appropriate modifications, in all cases as early as practicable.

**45. Slavery.**—The provisions of the constitution which throw most light on the condition of Texas at the time, and which have the most intimate connection with its history, are those relative to slavery, to the public lands, and to education. Slavery was established, but the slave trade, except with the United States, was forbidden. This was reversing the policy of Mexico, which disliked negro slavery as a United States institution, and hence had striven to suppress it. It was only natural, however, that Texas, lying contiguous to the slave States of the American Union and remote from the free States, and being an agricultural country, became, when it was colonized by the Anglo-Americans, slave-holding territory.

**46. The Public Lands.**—As to the public lands of Texas, which were almost its only resource at the time, and the management of which had been a great cause of trouble with the Mexican government, it was provided that every head of a family residing in Texas at the time of the Declaration of Independence should have a league and labor,<sup>1</sup> and each single man seventeen years of age or upward one-third of a league.

**47. Education.**—Among the general provisions of the constitution was the following: “It shall be the duty of Congress, as soon as circumstances will permit, to provide by law a general system of education.” The constitutions of the State have dwelt on this point more specifically, and the legislature has obeyed them, until free public education has become a Texas tradition.

**48. The Second Provisional Government.**—Owing to the war, which was approaching its crisis when the constitution was adopted, there could be no general election, but the convention choose David G. Burnet president, and a provisional government was organized to replace the one established by the consultation.

**49. The Regular Organization.**—On September 1, 1836, there was a general election for president, vice-president, and members of congress. Sam Houston was elected president. At the same time the question of annexation to the United States was submitted to the people, and the vote in favor of it was nearly unanimous.

**50. Recognition by Other Powers.**—The proposal of annexation was unfavorably received by the United States, and was soon withdrawn for the time, but in 1837 that power recognized the independence of Texas, and soon afterward France and England did the same.

**51. Difficulties of the Independent Republic.**—Though Texas had now an acknowledged place among the nations,

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<sup>1</sup> A league being  $4428\frac{2}{5}$  acres and a labor  $177\frac{1}{8}$ .

she had many difficulties still to encounter. The war with Mexico did not cease, but passed into an exchange of ineffectual but highly irritating border raids. The Indians made themselves very troublesome, and the more so because they were incited by the Mexicans. Most serious, however, was the inadequacy of the revenue. Texas then had but little wealth or trade that could be taxed, and was rich only in public lands and possibilities.

**52. The Government Reorganized.**—As soon as the authority of Mexico was thrown off, Texas proceeded to reorganize the government by a series of enactments in such a way as to make it conform to the social constitution of the Anglo-American settlers upon which it was to rest. The work was done mainly when the constitution of 1836 was adopted, but much of it lies in the ordinances and decrees of the provisional government and in the legislation of the congress. The Mexican system of departments and municipalities was gradually displaced, so far as it could be done conveniently, by the town and county system; and the civil law, which Spain had established in Mexico, by the common law, which the United States had inherited from England. In these radical changes, far more than in the victories of 1835-36, is to be found the real revolution which transferred Texas from Mexico to the American Union.

**53. Annexation to the United States.**—In 1844 a treaty with Texas for annexation was signed by President Tyler, but the United States Senate refused to ratify it. The opposition to the measure was due partly to a desire to avoid war with Mexico, which it was likely to cause, and partly to a determination among the anti-slavery senators to prevent the annexation of slave territory to the Union. The question became an issue in the presidential campaign of 1844, and Polk, who favored the acquisition of Texas, was elected. So in 1845 the matter was taken up again before the end of Tyler's term, and

annexation was provided for on the part of the United States, not by treaty, but by joint resolution of the two houses of Congress. This was signed by the president and afterward approved by Texas, whose annexation was thus finally consummated in 1845.

#### IV. THE STATE.

**54. War with Mexico.**—The immediate result of annexation was a war between the United States and Mexico. President Polk sent troops into the country west of the Nueces, which was claimed by both Mexico and Texas, and the fighting began there. The war ended in the defeat of the Mexicans and the addition to the United States of the whole country from Texas to the Pacific, including about one-third of the territory, exclusive of Alaska, under the stars and stripes to-day. The Rio Grande became the boundary between Mexico and the United States from just below the thirty-second parallel of north latitude to the Gulf.

**55. The Boundaries of Texas Fixed.**—In 1836 the congress of Texas defined the limits of the Republic as follows: “Beginning at the mouth of the Sabine river, and running west along the Gulf of Mexico, three leagues from the land, to the mouth of the Rio Grande, thence up the principal stream of said river to its source; thence due north to the forty-second degree of north latitude, thence along the boundary line, as defined in the treaty between the United States and Spain, to the beginning, etc.” The treaty here referred to is that of 1819, which established the eastern limit of Spanish territory as follows: Up the Sabine river from its mouth to lat.  $32^{\circ}$  N., thence directly north to Red river, thence with Red river west to long.  $100^{\circ}$  W., thence directly north to the Arkansas river, thence up that river to its source, and thence north to lat.  $42^{\circ}$  N. Noting this, it will be seen that the limits claimed for Texas by its congress in 1836 include a large part of what is now New

Mexico, together with portions of Colorado, Wyoming, Kansas, and Oklahoma. The act of the United States Congress in 1850, which was agreed to by the Texas legislature, fixed the boundaries where they are now, except a small portion on the north-east, Texas being paid \$10,000,000 for the claims which this adjustment required her to surrender.

**56. Greer County Adjudged to the United States.**—A small part of the north-eastern boundary of the State remained yet undetermined. The uncertainty about this depended on whether the north or south fork of Red river was properly the stream of that name mentioned in the treaties fixing the eastern limits of Texas. The disputed territory, which has been long under the jurisdiction of Texas and has been known as Greer county, has finally, by a decision of the Federal supreme court rendered in 1896, been adjudged to the United States.

**57. The Civil War and Reconstruction.**—After its annexation Texas grew rapidly in wealth and population and seemed on the high road to prosperity when the Civil War came on. Then it joined its fortunes to those of the other slave States in secession, and shared with them the bitterness of defeat and of reconstruction. After being under provisional and military government the State was re-admitted into the Union in 1870.

**58. Elements of the Population of Texas.**—The largest single element in the population of Texas has come from the Southern States of the American Union; but the State has attracted a large number of immigrants from the North, and many from Europe. The census of 1890 shows for it in round numbers 1,600,000 native white inhabitants, 425,000 negroes, 65,000 of mixed white and negro blood, 50,000 Germans, and the same number of Mexicans, besides numerous other foreigners in smaller proportions.

**59. Resources.**—In its extensive forests and its vast

area of fine agricultural as well as grazing lands, together with its rich and abundant mineral deposits, Texas has within itself the possibility of as complex and as highly developed an industrial system as can be found in any part of the world. Such industrial development, however, must naturally be accompanied by growth in the complexity and efficiency of the government and could hardly exist without it.

**60. Prospects.**—Since the disturbances of war and reconstruction have been over Texas has entered upon a highly prosperous career. Its population and wealth have grown rapidly, a great network of railways has overspread its territory, and its educational progress has been by unexampled strides. Freed from the incubus of slavery, blessed with public schools, endowed with boundless resources, and filled with new energies and aspirations, Texas, if she will only preserve what she has gained and continue her efforts, may expect to become foremost among the States. But this expectation will be justified only as she has capable and courageous leaders who are followed with enthusiasm and without distrust, and as the masses of her people are inspired with patriotism and trained to the discharge of civic duties. If the people of Texas can be brought to realize fully that its government is their own, and to take pride in it and seek earnestly in every way to support, to purify, and to make it more efficient, there will be no prouder commonwealth under American skies.



THE GREAT SEAL OF THE STATE OF TEXAS.

## CHAPTER III.

### THE GOVERNMENT OF TEXAS.



#### I. FUNCTIONS OF THE GOVERNMENT.

##### 1. OF THE STATE GOVERNMENT.

**61. The Self-sustaining Function.**—The first necessity of the government is to maintain its own existence in the proper degree of healthful activity. It meets this necessity in three ways: first, by providing itself with the means of subsistence; second, by providing against its overthrow or its reduction to impotence; third, by arranging so that the continuance of the official organization shall be independent of the tenure of office-holders. The first is accomplished through a financial system devised for raising money by taxation and using it to pay governmental expenses; the second, through a military system; the third, by a system of elections.

**62. Revenue and Taxation.**—The State of Texas has a large body of unsold land known as public domain, from which considerable revenue is derived through sales

and leases. Three million acres of this public domain were paid for the new capitol at Austin, but most of it has been appropriated for educational purposes. The main part, however, of the State's revenue is derived from taxes. These are of three kinds: a poll tax, which is a small fixed amount levied on all male inhabitants of the State from sixteen to sixty years of age, except Indians not taxed, persons insane, blind, or deaf and dumb, and those who have lost one hand or foot;<sup>1</sup> occupation taxes, which are levied upon corporations other than municipal and upon persons following certain occupations; and *ad valorem* taxes, which are levied on most property in the State, and, as the term indicates, in proportion to its value. Public property, church property, cemeteries, and property devoted exclusively to school purposes are exempt from taxation, and so is two hundred and fifty dollars worth of household and kitchen furniture for each family. The State tax for school purposes may amount to twenty cents on each hundred dollars worth of property. Exclusive of this and of what is levied to pay existing public debts, the State tax for general purposes, not including county or other local taxes, may amount to thirty-five cents on each hundred dollars.

**63. Appropriations.**—The money available to carry on the government can be paid out only in accordance with appropriations made by the legislature that indicate the various purposes for which it shall be used and fix the amount for each. That collected for a special purpose, as for the support of schools, cannot be appropriated to any other use. That collected for general purposes is divided among the different departments of the government according to the judgment of the legislature, this judgment being based mainly upon reports from the heads of those

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<sup>1</sup> Volunteer guards are exempt from all poll taxes except one dollar for educational purposes.

departments setting forth the work in each and giving an estimate of the amount required to pay the salaries of its officials and employés, together with other expenses.

**64. The Military System.**—The military system of the State includes, first, a small force of regular troops known as rangers; and second, the State militia, the organized portion of which is officially styled the volunteer guards.

**65. Rangers.**—Owing to the thin population of Western Texas and of the southwestern part adjacent to the Rio Grande, the local authorities in these quarters sometimes have special difficulty in preserving order and executing the law. To assist in this work the State maintains in regular service four companies of mounted troops known as rangers, numbering in all about one hundred men, and available for service at any point on short notice.

**66. The Militia.**—The militia consists of all able-bodied male citizens of the State between the ages of eighteen and forty-five. Several classes of persons, such as United States officials, ministers of the gospel, etc., are exempt from military duty except in case of insurrection or invasion. The militia is divided into two classes, namely, the reserve militia and the volunteer guards.

**67. The Reserve Militia.**—The reserve, or unorganized, militia consists of all persons liable to military service and not belonging to the volunteer guards. It may be called out by the governor in emergencies for which the volunteer guards are inadequate.

**68. The Volunteer Guards.**—This is the organized part of the militia. It is maintained partly to meet any sudden necessity of the State government,<sup>1</sup> for example, to disperse a mob that has overpowered the local authorities at any point; and partly to serve as a nucleus about

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<sup>1</sup> Its maintenance is encouraged by the United States government, because in case of war the volunteer guards of the States could be organized at the outset into a partially disciplined national army.

which the reserve might be organized if it should be required. Its maximum number is 3000, rank and file. The units of its organization, passing from lower to higher, are companies, battalions, regiments, brigades, and divisions. Each member provides himself a uniform, and the State furnishes his arms, which are obtained from the United States government. In case of invasion or insurrection the volunteer guards must respond to the call of the governor to repel or suppress it, and where the local authorities are unable to deal successfully with any unlawful outbreak the guards must obey also the summons of the mayor or sheriff needing assistance.

**69. Elections.**—Inasmuch as the tenure of all officials is limited by the Constitution, it is necessary that elections should be held at regular intervals. General elections are held every two years, and special elections at times and places fixed by law. For convenience in voting, each justice's precinct in a county is divided into election precincts, and each ward in a city constitutes one or more. The commissioners' court appoints a presiding officer for each precinct, and he selects two judges and two clerks, who, together with himself, are the managers of the election. They receive and count the votes and make returns to the county judge and county clerk. The method of voting is by ballot. In cities of 10,000 or over it is by a form of what is known as the Australian ballot. This is intended to secure secrecy, but the form used in Texas is not fully adapted to the purpose, for the reason that it does not preclude the possibility of ascertaining by an examination of the ballots and election records how each man has voted.

**70. The Regulative Function.**—The object of government is the general welfare, but students of political and social science differ greatly as to how far it may safely go in trying to accomplish that object. Some think it should seek only to restrain direct attacks or encroachments of

the stronger upon the life, liberty, or property of the weaker. Others are of the opinion that it may properly and safely undertake to better social conditions. But these theories differ only as to the degree to which government should go. Both allow that its main function is to regulate, more or less, the relations of men in society.

**71. Suppression of Crime.**—One of the primary functions of the State government is the suppression of crime. According to the criminal law of Texas, certain means are prescribed for the prevention of crime about to be committed. These are resistance, so far as may be necessary, by the person likely to be injured or by others; requiring bonds to keep the peace from such as have threatened others; dissolving unlawful assemblies, etc. It is, however, upon punishment that most reliance is placed in seeking to check criminality. Death by hanging is fixed for the worst crimes. For the more serious of those not punishable by death the common penalty is confinement at hard labor in the penitentiary for a term proportional to the gravity of the offence. For the lighter grades a fine or short imprisonment in the county jail is usually inflicted.

**72. Regulation of Civil Relations.**—People enjoying citizenship under the same government must have their natural and necessary civil relations regulated by some common system. The government of the State undertakes to shape and administer such a system. The civil law applies to such matters as the relations of husband and wife, parents and children, guardian and ward, employer and employé, and to wills, contracts, etc.

**73. Public Instruction.**—Convinced of the fact that ignorance constitutes the most serious bar to wise popular self-government, and that rational democracy can be secured only through the education of the masses, the people of Texas have added to the other functions of their government that of public instruction.

**74. The Organization of the System.**—The system of public instruction includes the public free schools, the University, the Agricultural and Mechanical College, the Sam Houston Normal Institute, and the Prairie View Normal School. The whole is maintained partly by special available funds and partly by appropriations from the general revenue of the State.

**75. The Public Schools.**—The Constitution of Texas makes it the duty of the legislature to maintain an “efficient system of public free schools.” The answer to this mandate is the existing system of the State. Its organization is by counties, districts, and communities. Cities, towns, and villages may constitute separate districts. Sectarian teaching is forbidden, and separate schools are provided for white and colored children. The free instruction offered by the State is for those eight years old and under seventeen; but cities, towns, and villages organized as independent districts and levying a special school tax, have power to extend these limits. Pupils seventeen years old and upward, or under eight, are usually admitted to the public schools on payment of tuition. In general, only teachers that have passed examinations and obtained certificates can be employed in these schools. The certificates are of two classes, local and State; the first being good only in the county or district that issues them, and the second throughout the State. They are also graded, and in country districts which do not levy special taxes the maximum salaries of teachers vary according to the grades of the certificates held by them. In some counties the public schools are organized by communities, in which there is no regard to distance from the school building or to neighborhood boundaries. This arrangement, however, is being superseded gradually by the district organization, by which the counties are divided into school districts. Each of these has one or more schools, on which all parents living in the

district must depend for the free instruction of their children.

**76. The State University.**—The departments of literature, science, and arts, of engineering, and of law, which are collectively known as the Main University, are situated at Austin. The medical department is at Galveston. The Constitution makes the Agricultural and Mechanical College a branch of the University, but there is no connection in the management of the two. The only cost of instruction to students is a matriculation fee of ten dollars, paid for each of three successive years, in the departments of literature, science, and arts, and of engineering; and thirty dollars, paid the first year, in those of law and medicine. The total amount of fees required of a student for tuition, including matriculation, in any one or more departments is limited to thirty dollars.

**77. The Agricultural and Mechanical College** is located at College Station, near Bryan. The instruction offered by it is mainly of a scientific and technical sort. Military training is one of its features. All students are required to give a certain amount of their time to work in the shop or on the farm. The agricultural labor is paid for, and in some cases those who wish are allowed to give extra time to it. The students live in dormitories belonging to the college, are furnished with board and uniforms at specially low rates, and pay fees amounting to about ten dollars each per year.

**78. The Sam Houston Normal Institute** is located at Huntsville. It is intended for the training of teachers for the public schools. The students all receive tuition free, and two hundred of them, appointed one by each representative, one by each senator, and the remainder from the State at large by various State officials, share in an appropriation by the legislature, which covers a portion of their expenses. The share of each has been by recent appropriations about fifty dollars. These appointees are

required to sign a pledge that they will teach in the public schools of their respective districts for at least as long a time as they attend the Institute.

**79. The Prairie View Normal School for Colored Teachers** is located at Prairie View, near Hempstead. Its special function is to train teachers for the colored public schools. One student from each senatorial district and fifteen from the State at large are given free board, lodging, and instruction, and all these are required to sign a pledge to teach in the colored schools of their respective districts as many terms as they attend this institution.

**80. Revenue for Educational Purposes.**—The public schools, the University, and the Agricultural and Mechanical College have each a permanent and an available fund, the permanent fund being in the nature of an endowment, and the available serving to meet current annual expenses.

**81. Permanent Funds.**—The permanent fund of the public schools is made up of lands, land notes, and State and county bonds of Texas, together with the uninvested cash arising from their conversion into money. That of the University is made up of precisely similar items except county bonds, while that of the Agricultural and Mechanical College consists of State bonds.

**82. Available Funds.**—Each of the special available funds includes the annual proceeds of its corresponding permanent fund. These proceeds are in the shape of cash received for lease of lands and interest on notes and on bonds. The available public school fund includes also one-fourth of all occupation taxes, a poll tax of one dollar levied on all persons not exempt by law, and a special *ad valorem* levy, which may reach twenty cents on each hundred dollars worth of property and is now fixed at eighteen. A law enacted in 1892 provides for the transfer of one per cent. of the permanent fund each year to the available. The available funds of the University and the Agricultural and Mechanical College are supplemented by

appropriations from the general revenue. The Prairie View Normal School is supported wholly by such appropriations, and the Sam Houston Normal Institute partly in this way and partly from the available public school fund.

**83. Other Functions of the State Government.**—The State of Texas recognizes fully its obligation to provide for its blind, its deaf and dumb, and its lunatics. These are cared for at the expense of the State in asylums maintained for the purpose. There is one at Austin for each of the classes named, besides one for blind and deaf and dumb colored youths, and a home for Confederate veterans. There is, in addition, a State lunatic asylum at San Antonio, another at Terrell, a home for orphans at Corsicana, and a reformatory for youthful criminals at Gatesville. The State undertakes also to regulate the management of railway corporations, especially by the establishment of fixed rates for carrying freight. This is done through a commission. In general, the policy of the State has been to avoid interference in what have been called purely business matters, but the increasing control of large corporations over public interests makes this policy more and more difficult. Various other functions, too numerous to characterize in detail, are assumed by the State. One other that may be mentioned is that of looking after the health of the public in a general way by establishing quarantine regulations, etc.

## 2. FUNCTIONS OF MUNICIPAL GOVERNMENT.

**84. Nature of Municipal Government.**—The municipality, whether it be county, city, town, or village, is organized for local self-government without sovereignty, and with limited powers conferred by the State. The principal respect in which these various forms differ is that the government of cities and incorporated towns and villages is less directly connected than that of the county with the

State government, and requires more extensive and active exercise of what is termed police power.

**85. Local Performance of State Functions by the County.**—The county can scarcely be said to legislate for itself at all. It is little more than a local agency for the administration of State law. The main direct contact of the government with the people is in the counties, and there most of its work is done. There State and local administration meet, but it is hard to tell just where one ends and the other begins. The public schools are organized by counties, and similarly, for the most part, are taxes assessed and collected. The county determines, through the commissioners' court acting under the laws of the State, the rate of taxation for county purposes, but has only a degree of control over the expenditure of the money. The rate of taxation for the State is prescribed, within constitutional limits, by the legislature; but taxes due the county, and the greater portion of those due the State, are assessed and collected by county officers. The assessor and collector are elected by the voters of the county and are paid partly from local sources and partly by the State; but they are under the direction of the comptroller and must report to him. The main courts of original jurisdiction,<sup>1</sup> which are the district and the county courts, are also organized by counties. The district court, although a district usually covers two or more counties, has in fact a separate organization, as well as separate sessions, for each. With the exception of the judge and the prosecuting attorney, all the officials, the jurymen, and in most cases the parties concerned as plaintiffs and defendants, are residents of the county in which the court is held. But, while the county has much to do with the composition of the courts, it has no direct control over their management.

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<sup>1</sup> That is, those in which cases can be tried without having been appealed from some lower court.

This, except for a degree of discretion given the commissioners' court over the times of holding county court and the number of its sessions, is determined almost entirely by State law. It is thus impracticable to define strictly the limits of county government and distinguish it with precision from that of the State. The degree of real self-government in the county system, which can be seen only in its purely local features, is very slight.

**86. Management of Special County Interests.**—Besides serving as the local organ of the State government, the county has work more peculiar to itself. It must levy and collect taxes for the support of its own government, which includes the erection and care of public buildings. It must look after its roads and bridges, and may for that purpose levy special taxes. The limits of the county's taxing power are fixed by the State as follows: the county may levy on each one hundred dollars' worth of property within its bounds, for general purposes not more than twenty-five cents; for roads and bridges not more than fifteen cents;<sup>1</sup> for roads, in addition, not more than fifteen cents; and for buildings and permanent improvements not more than twenty-five cents. The third of the four items enumerated can be levied only by a majority of the qualified voters who pay a property tax in the county. Counties having debts incurred prior to 1883<sup>2</sup> are not limited in the assessment of taxes to meet them. The county has also a degree of control over the public schools within its boundaries, and it must provide for its own paupers.

**87. Functions of the City, Town, or Village Govern-**

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<sup>1</sup> This may be levied to pay interest on bonds issued to build bridges.

<sup>2</sup> In this year the Constitution was so amended as to limit the taxing power of the counties to the extent here indicated, and even further; for the amendment adopted then did not allow the additional road tax mentioned as the third item. This was added by another amendment adopted in 1890.

**ment.**—Under the title of cities and towns, Texas law recognizes three classes of municipal corporations which overlap. The first is "towns and villages" of from two hundred to ten thousand inhabitants, incorporated under general law, with few and narrow privileges; the second, "cities and towns" of more than one thousand inhabitants, also incorporated under general law, but with numerous and extensive powers; the third, cities of more than ten thousand inhabitants incorporated under special charter. The Constitution of 1876 prohibits special charters for cities of less population than ten thousand; but in the third class may be included a number of such towns that had obtained special charters before that constitution was adopted.<sup>1</sup>

**88. Police.**—The more the population concentrates in particular spots—the denser the crowding becomes, the more necessary it is to have a system of regulations designed to prevent whatever may imperil the peace, health, or comfort of the public. These are known as police regulations, and it is the peculiar province of the city municipality to develop such a system. Towns and villages require the same, though in less degree. The police power of cities is quite extensive. They may pass laws to prevent breaches of the peace and infractions of good order; provide their citizens with water and lights; adopt ordinances intended to guard the public health; take measures for the prevention and the extinguishment of fires, including the organization of a fire department; regulate the opening and care of streets and alleys and the management of street railways and certain kinds of traffic, especially that of the markets and saloons; and make regulations covering a multitude of subjects for

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<sup>1</sup> The decisions of the Texas courts seem to have established a somewhat more elaborate classification, but that given here is sufficient for the purposes of this work.

purposes mentioned in the opening of this paragraph. The powers of which a general description is here given belong to cities and towns of the second and third classes. Towns and villages of the first class are given very limited police powers, covering such matters as removal of nuisances, regulation of markets, etc. In order to enforce its authority the municipality necessarily has its own courts.

**89. Taxation.**—In order to maintain their corporate existence and perform the functions thereto belonging, cities, towns, and villages may levy special taxes. Their powers of taxation, like their other powers, are defined by the legislature acting under the Constitution and vary widely, being of course greatest for cities and least for villages. The constitutional limit is two and a half per cent. *ad valorem*. In addition to this the municipality has some revenue from fines and license fees and occupation and poll taxes.

**90. Education.**—Any incorporated city, town, or village of over two hundred inhabitants in the State may take charge of the public schools within its limits. Towns and villages of the first class may incorporate for school purposes alone, thus avoiding other municipal activities.

**91. Industrial Functions.**—City municipalities are forbidden to engage in pure business enterprises and are to this extent precluded from assuming industrial functions. A city, however, that has become possessed of a water or light plant, or any similar kind of public works, may so manage that it shall yield a surplus above all its expense—that is, a revenue. The management then takes on largely the aspect of a simple matter of business, or of profit and loss, and the function assumed by the city is to that extent industrial.

## II. ORGANIZATION OF THE GOVERNMENT.

### 1. THE POPULAR POLITICAL ORGANIZATION.

**92. The Citizen.**—All persons living in Texas, “born or naturalized in the United States, and subject to the jurisdiction thereof,” are citizens of Texas.

**93. The Voter.**—While the citizens of Texas, as the expression is here defined, all belong to the society, or social aggregate, for and by which the government is formed, and while all of them are subject to the government and have an interest in its working, comparatively a small number have the right of participating in its organization by voting. The classes excluded are women, persons under twenty-one years of age, idiots and lunatics, paupers supported by any county, persons who have been convicted of felony and whose suffrage has not been restored by the governor, and soldiers, marines, and seamen, of the army or navy of the United States. The voter must have been for one year next preceding the election a resident of the State, and in order to vote for district or county officers he must have been also for six months immediately previous a resident of the district or county in which he offers to vote. In any case he can vote only in the precinct in which he resides.

**94. The Popular Will.**—The theory of republican government is that it depends upon, and must ultimately conform to, the will of the people governed. One of the most important questions for the student, therefore, is concerning the means and methods by which that will is expressed.

**95. Political Parties.**—In politics the will of the people means practically the will of the majority, and this can find effective expression only when the majority is organized for the time as a political party. Usually the will of a few, or of a minority, can determine the policy of the government only through the use of improper, or of extra-

ordinary, influence over officials ; but it may whenever the majority which has elected a certain set of officials dwindles into a minority before another election. In Texas, however, where the tenure of most officials is limited to two years, such a state of things could not last long. A political party is composed of voters who agree upon one or more cardinal principles of government, and who favor the corresponding policy and are organized to elect officials that favor it and to carry it out. The principal parties in Texas since the Civil War have been the democratic and the republican, but in recent elections the people's, or populist, party has cast quite a large vote.

**96. Primaries and Conventions.**—It is impossible that all the voters of Texas should assemble in one body to consult and legislate. Instead of that, a number of men, usually all the voters in a single county, or a group of counties, elect some one to represent them, and the men thus elected meet and make laws. It is equally impossible for all who belong to any one political party to gather for action in a single mass. Therefore the parties must have representative systems. Those members of a party that vote in the same precinct get together in what is known as a primary and choose delegates to represent them. All the delegates thus chosen in any particular county meet in convention and choose delegates to represent that county in the conventions of the judicial, the senatorial, and the congressional districts to which it belongs and of the State. The State convention adopts a platform, which contains a statement of the principles accepted by the party and of the policy which it promises to carry out in case it succeeds in the elections.

The method of nominating, or naming, men who shall be put forward as candidates for office by a party varies a good deal. The rule is that nominations for State or district officers are made by the respective conventions, and perhaps in a majority of cases this holds good for the

counties also; but a growing practice is to nominate county officers by means of a "primary election," or a vote throughout the county, of the party concerned. When a primary election is held, the county convention sometimes takes no action on the matter at all; sometimes it declares the result and designates the nominee; and sometimes, when no one has received a majority, it decides the nomination itself.

**97. Mass Meetings.**—Sometimes there suddenly arise questions in regard to the management of public affairs concerning which no existing party has taken a stand. When the people declare their will in such cases it is usually through mass meetings, which are in general not confined to any one party, but are gathered from all. The will of the people is expressed in the resolutions which the citizens thus assembled adopt. If the meetings are numerous and large and the policy demanded is evidently supported by a majority of the people, it is very likely to be followed by the government.

## 2. THE OFFICIAL ORGANIZATION.

**98. The Official.**—Those who are chosen by the voters of the State to take part directly in the government or to act as agents in carrying out the will of the people, or who are appointed for the same purpose by others so chosen, are known as officials.

**99. Qualifications of Officials.**—Most officials have no further qualifications required of them by law than those of the voter. In some cases, however, additional qualifications are requisite, as for the governor and lieutenant-governor, judges of the supreme court and courts of civil appeals, senators, etc.

**100. Elections.**—The principal officials obtain their places by election. Elections differ from nominations in being directly under the control of the government and in

being conducted, therefore, in a manner prescribed by law.<sup>1</sup> The method employed is for the voters to specify by means of ballots, which must be deposited at times and places fixed beforehand, whom they wish for the respective offices that are to be filled. Usually the choice for each office lies between two men—sometimes among several—that have been nominated, each getting more or less nearly the full vote of the party by which he was put forward. If one candidate gets more votes than any other, he is said to have a plurality; if he gets more than all the others together, he is said to have a majority. In Texas a plurality is sufficient to elect to any office.

**101. Appointments.**—Some officials get their places not through election by the people, but through appointment by other officials. Certain heads of departments are chosen in this way, and so are all the clerks. But the latter, inasmuch as all of them except the chief clerks, who almost necessarily have some share in the authority and the responsibility of the heads of their departments, are concerned mainly with routine work and matters of administrative detail, are to be thought of rather as employés who discharge their duties under supervision, than as officials in authority who are elected or appointed to shape and carry out a special policy.

**102. Removals.**—Officials against whom there is complaint may be removed by certain higher officials, or by the process of impeachment, or that of address. Most of the executive and judicial officers, from the governor down to the district judges inclusive, are removable by impeachment; judicial officers within the same range, as well as the commissioner of agriculture, insurance, statistics and history, also by address; and most district and county officers, after their trial and conviction for certain offences

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<sup>1</sup> Primary elections, which are held only to nominate officials, are also recognized and protected by law.

specified in the statutes, by the judge of the district. The governor may remove officials appointed by him or elected by the legislature whose removal is not otherwise provided for by law. The mayor, or an alderman of a town or city incorporated under the general law, may be tried upon certain specified charges and, upon conviction, removed by the remaining members of the council. The conviction of a county officer for felony, or any misdemeanor involving official misconduct, works of itself his removal, and the sentence must include an order to that effect. District judges may be removed by the supreme court for certain causes specified and proved. The procedure by impeachment is as follows: the House of Representatives adopts articles containing the charge against the accused and sends a committee to present and support them before the Senate, which sits as a court to pass upon the case. A two-thirds majority is required for conviction. As an alternative method the two houses may adopt, each by a two-thirds majority, an address<sup>1</sup> specifying causes for the removal of the accused person to the governor, who upon receipt of it dismisses him from office. In all cases of removal by any method the causes must be stated. The effort to remove an official by impeachment or address is but rarely made, and far more rarely is it successful.

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<sup>1</sup> This method is therefore called removal by address.

## CHAPTER IV.

### THE STATE GOVERNMENT.

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**103. The Co-ordinate Branches.**—The official organization of the government of Texas, like that of American republics in general, is divided into three independent and co-ordinate branches: the legislative, the executive, and the judicial. The function of the first is to make; of the second, to execute; and of the third, to interpret the law.

#### THE LEGISLATIVE.

**104. The Legislature.**—This body shapes and enacts laws and is absolute in its law-making power, except for the veto of the governor, and the requirements of the Constitution as interpreted by the courts. It is composed of the Senate and the House of Representatives, sometimes known respectively as the upper and lower houses. Each house judges the qualifications and election of its own members, makes its own rules, and must keep and publish a journal of its proceedings on which the yeas and nays on any question shall be entered at the request of three members. Each house also elects all the officials necessary to its complete organization except committee clerks and pages, who are appointed for the respective houses by the president *ex officio* and by the speaker. Two-thirds is a quorum for business in either house; both must meet at the same place, and neither can adjourn for more than three days without the consent of the other. Both must hold open sessions, except that the



THE CAPITOL AT AUSTIN.

Senate may act secretly on executive matters, such as nominations for office made by the governor. The salary of a member of either house is five dollars per day for the first sixty days of each session, and two dollars per day thereafter. Members are also entitled to mileage of not more than "five dollars for each twenty-five miles"<sup>1</sup> travelled in going to and returning from the legislative sessions. They are exempt from arrest, except for treason, felony, or breach of the peace, from the time of leaving their homes to attend the legislature until they get back after the session is ended. It is the business of the legislature to make laws providing for the systematic performance of all functions assumed by the government. It must make appropriations to cover the expenses of government, and it must, after each decennial census, divide the State into districts for the election of representatives in congress and of all State officials not elected by the people at large. It may effect the removal of certain officials by address. One special duty with which it is charged is the election of United States senators to represent Texas at Washington.

**105. The Senate.**—The Senate consists of thirty-one members who serve for four years each, fifteen being chosen for one legislature and sixteen for the next, so as to make what is called a continuing body.<sup>2</sup> To provide for their election the State is divided into thirty-one senatorial districts made up of contiguous territory and as nearly as possible equal in voting population. Each district is allowed one senator, and the districts must be so arranged that no single county shall have more than one. A senator must be at least twenty-six years old, a citizen of the United States, a qualified voter in Texas, a resident of the State for five years next preceding his

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<sup>1</sup> See *Const. Art. III. Sect. 24.*

<sup>2</sup> After each decennial reapportionment the entire number is chosen anew, and the senators draw for long and short terms.

election, the last year being in the district for which he is chosen. The lieutenant-governor is *ex officio* president of the Senate, but in his absence the president *pro tempore*, who is elected by the Senate, presides. It is the privilege, however, of either presiding officer, if he wishes to vacate the chair temporarily, to ask some senator to preside meanwhile. The functions of the Senate apart from the House of Representatives are to sit as a court of impeachment whenever that remedy is invoked by the House, and to confirm the appointments made by the governor.

**106. The House of Representatives.**—The membership of the House of Representatives has not, like that of the Senate, already reached its maximum constitutional limit, but may be changed by a new apportionment made by the legislature. The restrictions governing such reapportionment are that there must not be more than one representative for fifteen thousand inhabitants, and the total number shall not exceed one hundred and fifty. Several districts include a number of thinly populated counties, while some are made up of two or more contiguous counties that have each sufficient population for one or more representatives, and that have together a surplus large enough for another. For example, the fifteenth district is Hunt county and has one representative; the sixteenth is Kaufman and has one; and the seventeenth is composed of Hunt and Kaufman and has one. Representatives elected from districts like the seventeenth are called floaters. There are by the last apportionment, which was made in 1892, one hundred and eight representative districts, sixteen of them having two representatives each, and two having three each. Members of the House of Representatives serve for two years and are elected all at the same time, except in case of special elections to fill vacancies caused by resignation, or death, or otherwise, so that the election renews the whole house. A representative must be a citizen of the

United States, a qualified voter of Texas at the time of his election, and a resident of the State for two years immediately preceding, the last being in the district for which he is chosen. The presiding officer of the House is elected by it, and is styled the speaker. If he wishes to vacate the chair, he may ask some other member to preside for the time. The special functions of the House apart from the Senate are to decide upon and to conduct impeachment proceedings and to originate bills for raising revenue.

**107. Law-making.**—A proposed law, when it is introduced in the legislature, is known as a bill. Its title comes first and is followed by what is called the enacting clause, the form of which is prescribed by the Constitution and which reads, "Be it enacted by the legislature of the State of Texas." Any bill except those relative to the raising of revenue, which must come originally from the House of Representatives, may originate in either house and may be amended or rejected by the other. No bill can become a law till it has been reported upon by a committee and has been read in each house on three several days and free discussion of it allowed; but a majority of four-fifths can suspend the rule as to reading on three several days and push a bill through the consecutive steps to final passage immediately after it has been reported on by a committee. An important bill is usually discussed freely, and perhaps amended, in the house where it originates, and, after being passed there, is sent to the other to go through a like process. Time is occasionally saved by having two bills, either entirely or almost identical in their provisions, contemporaneously on passage through the respective houses. Amendments made by either house must be concurred in by the other before becoming part of the bill. When any bill has passed both houses in the same form it is signed by the presiding officer of each and is then sent to the governor for his signature. If it is signed by him,

or if it is not returned with a statement of his objections to it within ten days exclusive of Sundays, it becomes a law. It goes into effect commonly ninety days after the end of the session at which it is enacted; but a two-thirds majority of the full membership in each house may suspend this rule and make the law effective as soon as it passes finally from the governor's hands. When the legislature is in special session it can legislate only upon those subjects named by the governor in his call.

The usual process by which a law is made may be summarized as follows: a bill is introduced in one of the houses and is read by caption.<sup>1</sup> It is then referred to a committee and reported upon. At this stage it is read in full and, after being amended or altered if necessary so as to conform to the will of the majority, is voted on and passed to engrossment. The engrossed bill includes the alterations and amendments. Then come the third reading and passage, and next the same process of committee consideration, amendment, and voting in the other house. When the bill has passed its third reading in both houses, it is enrolled, or copied in its final form, with the amendments agreed to by both houses after its engrossment incorporated, and is signed by the presiding officers of both houses. Finally, it obtains the governor's signature, or is allowed by lapse of time to become a law unsigned by him, or is passed by the requisite majority of the two houses over his veto.

**108. Committee Work.**—A notable feature of our method of legislation is that the most important work in shaping bills and in controlling their fate is done by committees. The aim of this system is to save time and facilitate business in the houses, as well as to secure care-

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<sup>1</sup> That is, the title is read. This is called the first reading of the bill.

ful consideration for every bill; but one mischievous result of it, as it now operates, is that it increases the difficulty of fixing responsibility for any particular law upon its real authors or advocates. Discussions and votes in committee are not recorded, and none of the proceedings are published except what appears in the reports of the committee. Each house has a number of standing committees appointed by its presiding officer, some of the most important being those on the judiciary, on finance or appropriations, on education, and that of the House of Representatives, or the House, as it is usually called, on revenue and taxation. Every bill introduced in either house is at once referred to the appropriate committee. This is usually the end of it. A committee exercises the utmost freedom in dealing with bills. It may simply decline to report at all; it may report favorably or adversely; or it may amend to suit itself and then report. There are frequently two opposing reports, one by a majority of the committee, and another by a minority. It is easy to see how these circumstances work for or against a bill. In case of disagreement between the houses it is frequently compromised or reconciled in some way by a joint committee appointed for the purpose, and known as a conference committee.<sup>1</sup>

**109. The Governor's Message.**—The Constitution makes it the duty of the governor to send the legislature, at the beginning of each of its sessions and at the close of his term of office, a message describing the condition of State affairs and suggesting needed legislation. The message, however, is not mandatory, but simply advisory in its nature.

**110. The Veto Power.**—In case any bill passed by the

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<sup>1</sup> The committee is so called if it has power to consider only amendments, or special points of difference. If it is authorized to consider the whole bill in controversy, it is called a free conference committee.

two houses and sent to the governor does not meet his approval, he may refuse to sign it. If it remains in his hands for ten days exclusive of Sundays while the legislature is still in session, it becomes a law without his signature. If he returns it during the time indicated, together with a statement of his reasons for disapproval, to the house where it originated, the proceeding is called a veto. The bill can then be passed "over the veto" only by a two-thirds majority of each house. If the legislature adjourns before the ten days have expired, the governor may prevent the bill from becoming a law by filing his veto with the secretary of State within twenty days from the date of adjournment and giving notice thereof by public proclamation. The veto function, though it is exercised by the governor, is to be considered rather as legislative than as executive in its nature.

**111. Restrictions upon the Legislature.**—The rule by which the authority of the legislature is defined is that it can do anything not forbidden by the Constitution; but this instrument has a long list of restrictions. For example, it forbids the releasing of corporations or individuals from obligations to the State, the creation of a State debt except for purposes which it specifies, etc., etc. The tendency in shaping constitutions evidently is to make these restrictions more extensive and detailed, which appears in some respects unfortunate.

**112. Filibustering.**—Sometimes the passage of a bill favored by a majority, but specially distasteful to a minority of one or both houses, is delayed or altogether prevented by a method known as filibustering. This consists in obstructing the progress of legislation by such means as the rules of the house in which the obstruction is tried will allow. The principal filibustering expedient is for the minority, after due preparation and when some particular question concerning the objectionable bill is pending, to demand a "call of the house," *i. e.*, the bring-

ing in of all absent and unexcused members before a vote is taken. The demand usually develops the fact that there are such unexcused absentees. The minority sometimes makes the call a more effective obstruction by sending one or two of its own number away. After the house has been put under call there commonly follows a motion by some member of the majority to excuse the absentees in order to proceed with business. This requires, however, a two-thirds majority; and if it be lacking, there is nothing to be done except to give up the measure, or to keep the house under call and wait for the sergeant-at-arms to bring in the absentees. Methods of filibustering would naturally vary with the rules of the house in which they are tried. The one here described is that which appears to be best adapted to the existing rules of the Texas Senate and lower house.

## THE EXECUTIVE.

**113. Functions and Organization.**—The executive branch of the government is charged with the execution, or the administration other than judicial, of the law. It has some power to interpret law; but this is either simply provisional, or exists only so far as necessary in order to preserve the independence of the executive. At the head of this branch is the governor; and it is further composed of the various heads of departments and boards and the railroad commission. In contrast with the federal organization, which gives the president power to appoint all heads of departments, that of Texas requires election of the most important by the people. This is the general rule in the States. The governor of Texas appoints the secretary of State, the commissioner of agriculture, insurance, statistics, and history, the adjutant-general, and the various boards not having their membership fixed by the statutes, as well as the State health officer, the revenue agent, etc. The attorney-general, comptroller, treasurer, commissioner of the general land office, superintendent of public instruction, and railroad commissioners are elected by the people. All officers of the executive branch are required to make semi-annual reports to the governor, showing their receipts and disbursements, and may be called upon at any time for information in writing as to the management of their respective offices or institutions. Heads of departments are required to furnish, on payment of fees prescribed by law, certified copies of records in their offices to any person applying therefor. Chief clerks have a share of the authority and the responsibility of the heads of their respective departments. The term of two years is prescribed for all officials of the executive branch except railroad commissioners, regents of the University, etc.

**114. The Governor** must be at least thirty years of age, and must have resided in the State five years immediately preceding his election. During his term of service he can hold no other office nor practice any profession for compensation, nor can he reside elsewhere than at the seat of government, except as required or authorized by the legislature. He must account to that body for all public moneys received and paid out by him. His general duty is to "cause the laws to be faithfully executed."<sup>1</sup> He is commander-in-chief of the State troops when in the State's service, and has power to convene the legislature in extra session; to suggest legislation and veto bills; to grant reprieves, commutations of punishment, and pardons; and to fill by appointment vacancies in district offices and those of the State, except the legislature. He is *ex officio* a member of the board of education and of the State board of equalization. His salary is \$4000, and a mansion is provided for him by the State.

**115. The Lieutenant-Governor.**—The qualifications of the lieutenant-governor are the same as those of the governor. He is *ex officio* president of the Senate, and in case of the absence or disqualification of the governor, or in the event of any vacancy, permanent or temporary, in the chief executive office, must discharge the duties pertaining to that. His pay when acting as president of the Senate is that of a senator, and when acting as governor the same for the time as that of the governor.

**116. The Comptroller of Public Accounts.**—The comptroller is the keeper of the State's accounts. He is required to give bond in the sum of \$75,000 for the faithful performance of his official duties. These are, to require settlement of accounts due the State; to examine and approve, so far as he deems correct, the accounts of those to whom the State is indebted and to issue warrants

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<sup>1</sup> *Const. Art. IV. Sect. 10.*

upon the treasury for the amounts due; to report to the treasurer at the end of each month the warrants drawn during the month, and at the end of each quarter to adjust accounts with the treasurer and cancel warrants that have been paid during the quarter; to prescribe and publish regulations not inconsistent with the laws of the State for the assessment and collection of taxes; to preserve bonds and securities belonging to the State; to report to the governor annually, or oftener if required, the condition of the State funds, receipts and expenditures for the preceding year, and estimates of revenue and necessary expenses of government for that ensuing. The comptroller is *ex officio* a member of the State board of education. His salary is \$2500.

**117. The State Treasurer** gives bond in the sum of \$75,000 for the faithful performance of his official duties. These are, to receive and pay out money on the warrants of the comptroller, keeping strict account thereof, and to report to the governor annually, or oftener if so required, the condition of the treasury, showing the balance it holds, and a summary of receipts and disbursements for the preceding year, or whatever time may be specifically named. He is *ex officio* a member of the State board of public printing. His salary is \$2500.

**118. The Commissioner of the General Land Office.** —The land commissioner, as he is briefly called, must give bond like the comptroller and treasurer, the sum required in his case being \$50,000. His general duties are to superintend, in accordance with and subject to the laws of the State, the sales, leases, and general management of the public lands; to report to the governor or either branch of the legislature concerning the work of his department from time to time as may be required; and to give instructions from data in his office as to how disputed county lines shall be surveyed, and in case of an election as to the removal of a county seat, to determine similarly

the geographical centre of the county. He must reside at the capital. His salary is \$2500.

**119. The Attorney-General** is the State's legal adviser. It is his duty to represent the State in the higher courts; to give advice to district and county attorneys, and when suits ordered by the comptroller fall properly to them, to forward papers and instructions for the same, to require reports concerning such suits, and himself to report, when required, their status to the comptroller; to prepare forms for legal instruments for the use of the State; to give advice in writing to the governor or heads of departments concerning their official duties, or in matters touching the public interest; to inspect the accounts of all officers or individuals charged with the custody or collection of funds belonging to the State,<sup>1</sup> and to institute the proper legal proceedings on discovery of any default or arrears; to make, in conjunction with the comptroller and treasurer, the best possible disposition of judgments against insolvents in favor of the State; to keep a register of his official acts and opinions; to examine articles of incorporation for railroads, and to take the proper legal action to prevent corporations from exceeding their powers or to obtain, if necessary, forfeiture of their charters; to pass on the validity of issues of county or city bonds; and in case the duty cannot be discharged by the secretary of State, to preside at the organization of the House of Representatives. The attorney-general is *ex officio* a member of the State printing board and of the State board of equalization. He must reside at the capital. His salary is fixed at \$2000 together with fees not to exceed the same amount.

**120. The State Superintendent of Public Instruction.**—The duty of the superintendent of public instruction is to supervise the administration of the school law and to superintend business relating to the public schools

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<sup>1</sup> The statutes require this, but it is practically impossible.

of the State ; to determine appeals from the rulings and decisions of subordinate school officers ; to provide suitable blanks for reports of such officers and of teachers, and for use in connection with the business of the schools ; to transmit to those concerned with the management of the public schools such instructions as he may think adapted to secure the best execution of the school laws ; to examine and approve accounts against the school fund ; to file and index all reports and papers relative to the public schools sent to him or to the State board of education ; and to have the school laws of the State printed and distributed. He is *ex officio* secretary of the State board of education, and his salary is \$2500.

**121. Railroad Commissioners.**—The railroad commission is composed of three members elected by the people, one every two years for a term of six years. A railroad commissioner must be a resident citizen of the State, not less than twenty-five years old, not a holder of any other office of a State or the United States, and not in any way interested in railroad property. The duties of the commission are to classify railroad freights ; to fix rates for railroad transportation of freight, express matter, or passengers between points in the State ; to ascertain the actual value, the indebtedness, and the operating expenses of every railroad in the State ; to make investigations in order to determine what rates are reasonable and fair, examining for that purpose the books of railroad companies, and requiring under penalty the testimony of witnesses so far as may be necessary ; to report violations of laws concerning railroads to the attorney-general ; and to make annual reports to the governor of its official transactions, together with such information and recommendations as it may think advisable. The salary of a commissioner is \$4000, with travelling expenses when engaged in official duty.

**122. The Secretary of State** is required to preserve

a record of the governor's official acts; to keep a register of all officers appointed or elected in the State and commission them in all cases not otherwise provided for by law; to preserve documents of the State bearing its seal and properly belonging in his office, together with bills that have become laws and printed volumes received from other States or nations containing their laws; to attend to the publication of the laws of the State and the distribution of volumes containing them and of reports of the supreme court and courts of appeals; to furnish forms for election notices, writs, and returns, and in certain cases to take charge of, or to count, the last; to preside at the organization of the legislature, etc. He is *ex officio* a member of the board of public printing and the State boards of education and of equalization. His salary is \$2000.

**123. The Commissioner of Agriculture, Insurance, Statistics, and History.**—The official with this cumbersome title must not be interested in any insurance company, except as insured, nor in the ownership of any mine or mineral lands. The bond required of him is in the sum of \$5000. His duties are to execute the laws falling under the title of his department; to have charge of the State library; to keep bound files of the leading newspapers of the State; to preserve historical relics in possession of the State, to gather historical information relative to Texas, and to get from Mexico, as far as possible, either the original archives of Texas or copies thereof; to gather statistics of the population, wealth, and resources of the State; and to have charge of the State geological survey. Statistics relative to agriculture, horticulture, and stock-raising are gathered in this department by means of blanks with printed questions sent out to assessors; but there is no penalty provided for failure to return the blanks properly filled out. The commissioner is *ex officio* a member of the board of directors of the

Agricultural and Mechanical College. His salary is \$2000.

**124.** The Adjutant-General is not classed by the statutes as among the heads of departments, but his functions are sufficiently like theirs to justify treating him here as one of them. He is chief of the governor's military staff and, as such, active head of the State troops. His official bond is in the sum of \$10,000. His duties are to keep in charge all munitions of war belonging to the State; to issue the orders of the commander-in-chief, the governor; to keep on file records pertaining to the military service of the State; to report annually to the governor concerning the condition and interests of this service; to keep an account of public moneys received or paid out by him; and to have printed and distributed the laws governing the militia. His salary is \$2000.

**125.** The State Health Officer has general oversight of the execution of sanitary and quarantine laws and regulations. He is charged with the supervision of the appointment of public analysts and chemists, and with the preparation of rules and regulations for the inspection of food and drugs. If circumstances demand a quarantine in any part of the State, and the governor, for any reason, cannot act at once, the State health officer is empowered to declare and maintain such quarantine until the governor can issue his proclamation. The official bond of the State health officer is in the sum of \$10,000. His salary is \$2500, and his necessary travelling expenses incurred while in discharge of the duties of his office are paid from the treasury.

**126.** The Revenue Agent.—The office of revenue agent was created for the purpose of securing a better enforcement of the revenue laws. The duty of the agent is to examine, when so directed by the governor, the books and accounts of assessors or collectors or any persons receiving or disbursing public money, in order to ascertain

whether the laws governing such matters have been violated. His salary is \$2000, and his actual travelling expenses are paid by the State.

**127. Administrative Boards.**—The management of the various educational, charitable, and penal institutions of the State, and of some of its special interests, is in the hands of boards created for the purpose. The boards of education, of printing, and of equalization have their membership fixed by law, while the others are all appointed by the governor and confirmed by the Senate.

1. **The Board of Education** is composed of the governor, who is *ex officio* president, the comptroller, and the secretary of State. The superintendent of public instruction is *ex officio* its secretary. The duties of this board are to make annual apportionments of the available school fund among the counties and such cities and towns as are organized as separate districts, to conduct the management of the Sam Houston Normal Institute, and to hear appeals from the rulings of the superintendent. Its sessions must be held at the capital.

2. **Regents of the University.**—These are eight in number. They are appointed two every two years, each for a term of eight years. They are charged with the management of the University and of the lands belonging to its endowment. Their expenses are paid, but they have no salary. The secretary of the board is chosen by it, but not from its own membership, and is paid six hundred dollars per year.

3. **Directors of the Agricultural and Mechanical College.**—This board has four members, besides the commissioner of agriculture, who are appointed each for six years. Its duties and powers relative to the College are the same as those of the regents relative to the University. It has charge also of an agricultural experiment station which is connected with the College, and of the Prairie View Normal School. The directors are paid only the amount of their actual expenses, except in the case of the secretary, who is elected by the board out of its own number, and who has an allowance of five hundred dollars per year.

4. **Local Board of Directors for the Sam Houston Normal Institute.**—The local directors of the Institute are three in number. They have general supervision of its buildings and grounds

and perform such duties connected with it, and make such reports, as the board of education may require. They get an annual salary of not more than one hundred dollars each.

**5. Trustees of Asylums.**—The various asylums maintained by the State, including the Confederate Home at Austin, are managed each by a board of trustees consisting of five members. The membership of these boards is almost entirely local—*i. e.*, made up of persons living in the neighborhood of the asylums. The board for the Confederate Home must be composed of ex-Confederate soldiers, and the superintendent of the Home must have the same qualification. The various boards are charged by law with the election of superintendents for, and with the general management of, their respective asylums, and they are required to report biennially to the legislature. The trustees are paid each five dollars per day for attendance upon regular meetings provided for by the statutes and not lasting more than one day, and five cents per mile for distance travelled going and returning.

**6. Penitentiary Commissioners.**—The general management of the State's penitentiaries is in the hands of a board of commissioners, who are three in number, and whose duties include making contracts for additional buildings, leasing convict labor, purchasing farms on which the State may itself use such labor, prescribing rules for handling convicts, etc. Each member receives six dollars per day and actual travelling expenses while in performance of official duties.

**7. Trustees of the House of Correction and Reformatory.**—This board numbers three, and its duties are to formulate rules and regulations for the management of the institution, and after these have been approved by the governor to attend to their enforcement. The board is required also to make regular reports to the governor giving an account of its official transactions and showing the condition of the affairs of the reformatory. The members receive each five dollars per day actual expenses while discharging official duties, the total amount paid any one being limited to one hundred and fifty dollars per year.

**8. Pardon Advisers.**—There are two of these, and their duty is to assist the governor in passing upon applications for pardon. They have no definite term. Their service is limited to one hundred days per year, and their compensation is five dollars for each day spent in the discharge of their official duties.

**9. The Board of Public Printing** is composed of the attorney-general, the State treasurer, and the secretary of State. Its duty is to contract for public printing, including the laws, journals of the Senate and House of Representatives, reports of officials, stationery for departments, etc. It is authorized to employ an expert printer to assist in settling technical questions.

**10. The State Board of Equalization** consists of the governor, the attorney-general, and the secretary of State. Its duty is to hear and determine appeals that may be made from the decision of the comptroller fixing the value of lands belonging to non-residents in unorganized counties and rendered to him for taxation.

### THE JUDICIAL.

**128. Functions and Organization.**—The judicial is the special law-interpreting or law-administering branch of the government. It is charged with the duty of deciding how the law applies to particular cases in which there is a formal prosecution, or raising of the question. The various officials belonging to the legislative and executive branches must interpret and administer law also, but their decisions are in most cases subject to review and revision by the judicial. This branch is composed of the supreme court, the court of criminal appeals, courts of civil appeals, district courts, county courts, commissioners' courts, justices' courts, and mayors' or recorders' courts.

**129. The Supreme Court** of Texas is composed of a chief justice and two associate justices elected by the people, one every two years for a term of six years. Judges of the supreme court must be at least thirty years of age and must have been, when elected, practising lawyers or judges for at least seven years. Each has a salary of \$4000. The jurisdiction of the supreme court is civil and mainly appellate—*i. e.*, confined to reviewing civil cases that have already been tried in the lower courts. The only courts, however, from which cases pass directly to the supreme court are those of civil

appeals. It may issue writs of *habeas corpus*, *mandamus*,<sup>1</sup> and all others necessary to maintain its jurisdiction. Cases in which the decision of the court of civil appeals is not final may go to the supreme court on appeal or by writ of error. Appeal in such cases, however, is not made by plaintiff or defendant; it is simply a statement of conflict in the opinions of judges sent up to the supreme court by the court of civil appeals itself. This may occur in cases in which the court of civil appeals is divided, or in which it overrules a previous decision of its own or of another court of civil appeals or the supreme court. If the judges of a court of civil appeals wish, they can ask for the decision of the supreme court on a question of law pending before them undecided. In all cases of appeal the decision of the supreme court on the point at issue is entered as that of the court from which the appeal comes. In cases where there is no conflict of opinion and where the decision of the court of civil appeals is not made final by the statutes, any special feature of the judgment of this court may be reviewed by the supreme court through what is called a writ of error. This may be issued in answer to a petition from one of the parties setting forth the nature of the alleged error by the court of civil appeals in applying the law. If the petition is in due form and the supreme court thinks there is ground for the allegation of error, it issues the writ, which calls up the case for judgment of the contested point. This court never reviews evidence, nor does it pass upon any point in a case before it, except such as is called in question by appeal or writ of error.

### 130. The Court of Criminal Appeals.—This is the

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<sup>1</sup> The writ of *mandamus* is a command from the court, and that of *habeas corpus* is in effect the same. The former is a direct order to some person or persons or organization to do something prescribed by the court; and the latter requires the custodian of a prisoner to produce him in person before the court and show by what warrant he is held.

supreme criminal court of Texas. It has appellate jurisdiction in criminal cases throughout the State. It is composed of three judges, who have the same qualifications, tenure, and salary as the judges of the supreme court and are elected in the same way. Two out of three make a quorum, and the concurrence of two is necessary to a decision. The court of criminal appeals holds three terms annually: one at Tyler, beginning on the first Monday in October, one at Dallas, beginning on the first Monday in January, and one at Austin, beginning on the first Monday in April.

**131. The Courts of Civil Appeals.**—There are five of these courts, one for each of five districts into which the State is divided. Ordinarily each hears appeals from lower courts in its own district, but if the docket of any one of the five becomes very much crowded the supreme court may relieve it by transferring some of its cases to another with less business on hand. Judges of the courts of civil appeals have the same term and qualifications as those of the supreme court, but their salary is \$3500. The courts of civil appeals have appellate jurisdiction over civil cases that have been tried in the district courts, those in which the county courts have original jurisdiction, and those in which the same have appellate jurisdiction if the judgment or amount in controversy exceeds \$100 exclusive of interest and costs. The judgments of the courts of civil appeals are final in certain cases enumerated in the statutes.<sup>1</sup>

**132. District Courts.**—The State is divided into fifty-three judicial districts, each of which has its own court. Sometimes where a district includes two or more counties, one of them containing a city, a separate district is made of the county in which the city is situated. In this way one district is made to include another. For example, the

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<sup>1</sup> See *Revised Statutes of Texas*, Art. 996.

twenty-sixth district is composed of Williamson and Travis counties, while the fifty-third is Travis alone, this being the county in which Austin lies. In districts so arranged, the courts of the two have concurrent jurisdiction in the smaller—*i. e.*, any case originating in this district that could properly be tried in one of the courts might as properly be tried in the other, unless the judge of the latter should chance to be disqualified. Besides the fifty-three regular district courts of the State, there is a criminal district court for the counties of Galveston and Harris, in which lie respectively the cities of Galveston and Houston, and one for Dallas county, in which is situated the city of Dallas. These courts have the criminal jurisdiction of both district and county courts in the districts to which they belong, which leaves to those regular courts only their civil jurisdiction. Judges of the district courts must be at least twenty-five years old, practising attorneys or judges of not less than four years' standing, and for two years next preceding the election resident in their respective districts. The salary of a district judge is \$2500, and his term of office is four years. The district court has original jurisdiction in criminal cases of felony grade, in cases of misdemeanor involving official misconduct, in civil cases where the value in controversy is more than \$500, and in certain other civil cases specified by law.<sup>1</sup> It has also appellate jurisdiction over the county court in probate matters, and over the commissioners' court. There must be during each year at least two regular sessions of the district court at each county seat in the district.

**133. County Courts.**—There is one of these in every organized county. It is presided over by the county judge. His term is two years, and his salary consists partly of fees and partly of such allowance as may be made him by the commissioners' court for the discharge of *ex officio*

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<sup>1</sup> See *Revised Statutes*, Art. 1098.

duties. The original jurisdiction of the court extends to civil suits where the value in controversy is over two hundred and not over one thousand dollars, and to misdemeanors which do not involve official misconduct and which may be punished by imprisonment or by a fine of more than two hundred dollars. The county court has also appellate jurisdiction over civil cases tried in justices' courts where the value involved is more than twenty dollars, and over criminal cases tried in lower courts.<sup>1</sup> It must hold at least four sessions annually.

**134. Commissioners' Courts.**—There is one of these courts also in each organized county. The county judge is its presiding officer, and its other members are four in number. They are styled commissioners, and one is elected from each of four precincts into which the county is divided for the purpose. While this body is organized as a court and has power to issue certain writs, etc., its functions are administrative rather than judicial.

**135. Justices' Courts.**—Each county is divided into precincts, not less than four nor more than eight in number, and each precinct has a justice's court presided over by a justice of the peace, who is elected by the voters of the precinct and paid by fees. This court has civil jurisdiction where the value in controversy is not over two hundred dollars, and criminal jurisdiction over misdemeanors not involving official misconduct and punishable by a fine of not exceeding the same amount. There must be one term of the court each month.

**136. Mayors' or Recorders' Courts** are peculiar to incorporated towns and cities. They have criminal jurisdiction extending to all cases of violation of city ordinances.

**137. Clerks of the Courts.**—Each of the courts has a clerk, who keeps a record of its official proceedings and

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<sup>1</sup> In several counties the jurisdiction of this court has been transferred partially to the district court.

performs certain other duties required of him by law. The clerk of the supreme court, for example, is librarian for the court; the clerk of the district court in certain cases administers oaths, takes depositions, etc.; and the clerk of the county court, who is also *ex officio* clerk of the commissioners' court, must record deeds, issue marriage licences, etc. The court of criminal appeals has a clerk for each place where it sits, and the district court has one for each county in the district.

**138. The Jury System.**—An essential feature of the district and other inferior courts is the jury system. The broad distinction between the functions of the judge and those of the jury is that the judge passes upon the law and the jury upon the evidence. In actual practice, however, questions of law and evidence are often almost indistinguishably blended. Jurors must have certain qualifications prescribed by law.<sup>1</sup> Juries are of two kinds, grand and petit.

**139. The Grand Jury** consists of twelve men, selected by three commissioners appointed for the purpose, for each term of the district court. The jurors are selected from the county in which the term is held, and their duty is to obtain evidence and shape indictments against persons accused of crime. The grand jury acts under general instructions, known as a "charge," from the district judge, and with the coöperation of the district attorney. Its sessions are secret.

**140. The Petit Jury** sits to hear the evidence in any particular case and, acting under a "charge" from the presiding judge of the court as to the law that is applicable, brings in a verdict according to its judgment of the facts. It numbers twelve in the district court and six in the county and justices' courts. For the district and

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<sup>1</sup> See *Revised Statutes of Texas*, Arts. 3138-3144; *Code of Criminal Procedure*, Arts. 372, 378.

county courts the jurors are chosen by a complicated system in which selection by an appointed commission, by lot, and by the presiding judge, together with exclusion by the challenges of both plaintiff and defendant, all play a part. For the justice's court the process is somewhat simpler. The verdict must be unanimous. If the jury cannot agree, the case must be tried over before another.

## CHAPTER V.

### LOCAL GOVERNMENT.

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**141. The Organs of Local Government.**—The subdivisions of the State for purposes of local government are termed municipal. They are the county, which is subdivided into precincts, and the incorporated city, town, or village. The town in the New England sense and the township have no existence in Texas.

**142. Powers of Local Self-Government.**—The power of a municipality to govern itself is granted by the State, which, of course, defines the limits of the grant. No city or county can have a complete code of law established by its own authority, but it can regulate local affairs within the limits of that authority. In this respect the county shows far less activity than the city.

### THE COUNTY.

**143. Relation of the County to the State.**—The county is a subdivision of the State intended to facilitate government, by leaving it to the people of each locality to administer the laws of the State in that locality and to attend to their own affairs according to their own will and judgment, so far as this can be done without injury to the general interest represented by the State government. There are now two hundred and forty-four counties in Texas, nineteen of which, owing to the thinness of their population, are yet unorganized. The Constitution provides that counties created from unorganized territory shall contain not less than nine hundred square miles; that new counties

created from those already existing shall have an area of not less than seven hundred square miles, no part of which shall be less than twelve miles from a previously established county seat; and that no existing county shall be cut to less than seven hundred square miles. New counties may be formed from existing ones by the legislature, and a part of one county may be transferred by legislative act to another, after a majority of votes in each county affected has been cast in favor of such transfer. A simple majority of voters in a county may move the seat of it from a point outside a circle of five miles radius around the geographical center of the county to a point within that circle, but in any other case to move the county seat requires a two-thirds majority.

**144. Organization of the County Government.**—The courts belonging to the county at large, whose officials are elected by the county and whose jurisdiction does not extend beyond its limits, are the county and commissioners' courts. The latter is the chief administrative organ of the county.

**145. The Commissioners' Court in its Administrative Capacity.**—Whatever the county has the power to do for itself is done mainly through this court, which has charge of the county buildings and oversight of its roads and bridges, provides for the care of paupers, and may, under restrictions established by law, levy special taxes in the county.

**146. The County Officials.**—Besides the officials who compose the county and the commissioners' courts, there are a number elected by the county who are responsible to it only by virtue of this election and are in very slight measure under its direct control. These are the sheriff, district and county clerks, assessor, collector, treasurer, superintendent of public instruction, and county attorney. There are also in each county a number of officials known as notaries public, who are appointed by the governor. The

term of all county officials is two years. Their salaries consist mainly of fees prescribed by law.

**147. The Sheriff.**—The sheriff is the chief peace officer of the county. He is charged with the arrest and safe-keeping of all offenders against the law until their examination or trial. Usually the arrest is made on a warrant issued by some magistrate; but any peace officer may arrest a guilty or accused person without a warrant in case of a felony or an “offence against the public peace,” committed in sight of the officer himself or of a magistrate who verbally orders the arrest, or in case there is satisfactory assurance that such a crime has been committed and that the criminal is about to escape. The sheriff is authorized to appoint deputies with the same powers and duties as himself, and to call, if necessary, a posse to his help in the execution of any legal process. He is required to attend the sessions of all courts held in his county, from the commissioners’ to the supreme court, and must execute any process directed to him by legal authority. He must give bond for the faithful performance of his official duties in a sum fixed by the commissioners’ court, at not less than \$5000, nor more than \$30,000.

**148. The Assessor.**—The principal duty of the assessor is to ascertain the value of all property subject to taxation in the county. In counties having the community system of public schools he is required also to take the scholastic census. In assessment the property is first valued by the owner or his agent under oath, which the assessor is authorized to administer. Where parties fail or refuse to state values fairly, it must be done by the assessor himself. The lists of values made out in this way are subject to revision by the commissioners’ court sitting as a board of equalization. When they have been approved by this board the assessor must make three copies of the whole, known as rolls, one for the collector, one for the State comptroller, and one to be kept open to public inspection.

in the county clerk's office. He must prepare also lists of unrendered property to be distributed in the same way. The bond required of the assessor amounts to one-fourth the State tax of the county according to the last preceding assessment, but is not to exceed \$10,000. He receives five cents for each hundred dollars assessed up to two millions, two and a half cents from that to five millions, and two cents above five millions. The State pays two-thirds of his commission, and the county one-third. Where he takes the scholastic census he is allowed five cents for each name of the first thousand enrolled, and three cents each for all above. This is paid out of the available school fund. The assessor may appoint deputies with the same powers that are exercised by himself.

**149. The Collector.**—The special duty of this official is to collect the taxes due the State and county, and to pay the amounts thus collected into the hands of the treasurers authorized to receive them. He must report collections, together with a list of insolvents and delinquents, to the comptroller, and post one copy of this list at the county court house and one in each justice's precinct in the county. He is required to give bond in the sum of the State and county taxes as shown by the last preceding assessment. His pay is five per cent. of the first ten thousand dollars collected for the State, four per cent. of the next, and one and one-fourth per cent. on all above; five per cent. on the first five thousand collected for the county, four per cent. for the next, and two per cent. on all above; five per cent. on occupation and license taxes; and one per cent. on collections for railroad subsidies. The collector may appoint deputies in the same manner as the assessor.

**150. The Treasurer.**—The duty of the treasurer is to receive moneys belonging to the county, including the school fund, pay them out on proper vouchers, and account for them by reports to the commissioners' court. He must register all claims against the county and file reports of

them in the county clerk's office. He is required to give bond in double the amount of the school fund of the county, and in such further sum as the commissioners' court may deem necessary. The pay of the treasurer is one-half per cent. of amounts received, and the same of amounts disbursed, for the school fund, together with such allowance as may be made by the commissioners' court for other receipts and disbursements, which must not exceed two and one-half per cent. of these, nor can the whole salary exceed \$2000.

**151. The County Attorney.**—The county attorney is the State's lawyer in criminal cases in the county and lower courts and must represent the State or county in all other cases in which it is interested belonging to these courts; and he must also jointly with, and under the direction of, the district attorney represent the State in the district court. He must be an attorney licensed to practise in this court. He is required to make complaint of any neglect of official duty coming within his knowledge, and to formulate and present the sworn complaints of others concerning any alleged breach of law to the courts having jurisdiction of the matter. It is his duty also to report to the attorney-general, when so directed by him, in regard to criminal matters and to the interests of the State. He must give bond in the sum of \$2500 that he will faithfully pay to the proper authorities all moneys for the State or county that may come into his hands. His compensation is mostly from fees for convictions secured by him, which range from five to fifty dollars per case. In many judicial districts there is no district attorney, and in these the duties of that official devolve on the attorneys of the respective counties.

**152. The County Superintendent of Public Instruction.**—This office may be created by the commissioners' court, and it may be discontinued at the end of any superintendent's term by the same authority. The county super-

intendent must be the holder of a teacher's certificate of the first grade. General supervision of school interests in the county is committed to him, and he must hold at least three teachers' institutes for the county each year. Vouchers drawn against the county school fund and contracts between teachers and trustees must be approved by him, and he appoints a county board of examiners. He must give bond for the faithful performance of his official duties in the sum of \$5000. His salary varies from \$800 or less per year to \$1200, according to the scholastic population of the county. In counties without a separate superintendent the county judge is *ex officio* holder of that office.

**153. The County Surveyor.**—The duties of the county surveyor are to record surveys made in the county with a view to obtaining patents; to keep open to public inspection a map showing all the surveys that have been made in the county; and to report to the commissioners' court inclosures of the public school land in the county. His official bond is in the sum of \$10,000, and his pay is in fees, the amount of which is fixed by law.

**154. Notaries Public.**—The governor appoints for each organized county a number of notaries public, who are empowered to administer oaths and take acknowledgment of instruments for record or for other purposes. Each gives bond in the sum of \$1000 and is paid by fees as the law directs.

**155. The Precinct.**—The divisions of the county are known as precincts. These are of two kinds, commissioners' and justices'. As will be seen from the two following sections, there is little or nothing of local self-government in the organization of the precinct.

**156. The Commissioner's Precinct.**—There are four of these in every organized county, and each elects a commissioner.<sup>1</sup> Although this official more than any other

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<sup>1</sup> See § 134.

represents local self-government in the county, his precinct exists only for his election and has no government separate from that of the county as a whole.

**157. The Justice's Precinct** is created only to serve convenience in the exercise of the State's judicial power. There must be not less than four nor more than eight justices' precincts in every organized county, and the officials they elect are justices of the peace and constables.

**158. The Justice of the Peace.**—Each precinct elects at least one justice of the peace, and in case it contains a city of 8000 inhabitants it elects two.<sup>1</sup>

**159. The Constable.**—The constable has relations to the justice of the peace like those of the sheriff to the district or county judge. His duties and powers are similar to the sheriff's, though not so extensive. Especially is he charged with the arrest of criminals and the execution of all processes directed to him by proper legal authority. His bond is fixed by the commissioners' court at some amount not less than \$500 nor more than \$1500.

### THE CITY, TOWN, OR VILLAGE.

**160. Functions and Classification.**—Municipalities of this kind are in Texas the most active organs of local self-government. The three classes,<sup>2</sup> which according to the somewhat uncertain terms of the statutes overlap in rather curious fashion, are first, "towns and villages" of 200 to 10,000 inhabitants; second, "cities and towns" of more than 1000 incorporated under general law; third, cities of over 10,000, together with some of less population incorporated prior to the adoption of the present constitution, having special charters.

**161. "Towns and Villages."**—These are incorporated only under general law with comparatively slight powers

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<sup>1</sup> See § 135.

<sup>2</sup> See § 83.

of local self-government, some for school purposes alone, others for general purposes. The municipal authority is exercised by a mayor and five aldermen, who, together with a marshal, are elected from the "town or village" at large. The marshal has in the town the same powers and is entitled to the same fees as constables in their precincts, and it is his duty, acting under the direction of the mayor and council, to enforce such regulations as they, in the exercise of the powers granted them by law, may make. The council or board of aldermen has power to determine what other offices shall be created, and to appoint men to fill them.

**162. "Cities and Towns" Incorporated under General Law.**—Municipalities that incorporate in this class by accepting the provisions of the general law relative thereto have much greater powers<sup>1</sup> and a more complex system of government than those in the class "towns and villages." In order to facilitate the organization of the municipal government the city is divided into wards, which now serve the purpose mainly of election districts, and which are required to have as nearly as possible the same number of voters.

**163. The City Council.**—The "city or town" is governed by a council, consisting of a mayor, elected by the entire body of voters, and of two aldermen for each ward, also elected by a general vote. If the "city or town" is not divided into wards, the council consists of a mayor and five aldermen. The council legislates for the municipality, its acts consisting partly of ordinances having more or less permanent force, and partly of administrative measures, such as orders for the building of a bridge or the cleaning of a street, which have only temporary application. It has power to create or discontinue any municipal office it may see fit, except those of mayor, alderman, mar-

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<sup>1</sup> See §§ 83-87.

shal,<sup>1</sup> and secretary, whose existence is required by the law.

**164. The City Executive and Judicial Officers.**—Besides the executive officers which the law makes necessary for all “cities and towns,” there are others, executive and judicial, which are not often wanting in the more populous. These are the recorder, the assessor and collector, the treasurer, and the city attorney.

**165. The Mayor** is the chief executive officer of the city. His function is to superintend the working of the municipal government, cause the prosecution and punishment of neglect or violation of official duty on the part of subordinate officers, suggest needed legislation to the council, and preside at its meetings. He may veto the ordinances of the council, but it requires only a simple majority to pass them over his veto. He has power to close saloons or other public places when he considers it necessary in order to preserve the peace of the city; and, either to preserve the peace or to enforce the city laws, he may call into service the citizens. The mayor’s jurisdiction is purely criminal and extends only to cases of violation of city ordinances.

**166. The Marshal** is chief of the police. His duty is to keep the peace of the city and to perform any other function which the council acting under the law may assign to him; and he is authorized, like the mayor, to close places of public resort when it becomes necessary to preserve order. He may be paid by a salary, by fees, or by both, as the council may determine.

**167. The Secretary** is the keeper of the city records, including the minutes of the council. He is required to draw warrants on the treasurer for all money paid out, to keep the accounts of the city, and to discharge such

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<sup>1</sup> In towns of less than 3000 inhabitants the office of marshal may be abolished by the council.

other duties as the council may assign to him. His compensation consists in an annual salary together with fees allowed by the council.

**168. The Recorder.**—If the council sees fit, it may transfer the judicial powers of the mayor to a recorder, in whose court are tried all cases arising under the laws of the city. The recorder is paid either by a salary or by fees, or both, as the council may decide; but his fees must not include fines imposed by the court.

**169. Other Officials.**—The officials usually belonging to the city government, other than those whose functions have been described, are the treasurer, the assessor and collector, and the attorney. Their general duties are sufficiently indicated by their titles, and their more special duties are defined by the city ordinances.

**170. Cities Incorporated under Special Charters.**—Under the present law only cities having over 10,000 inhabitants can be granted special charters. The larger cities of the State, together with some towns whose charters were obtained previous to 1876, are thus incorporated. Cities having special charters enjoy, as a rule, more extensive privileges of self-government than those incorporated under the general law, but they also vary a good deal in this respect among themselves.<sup>1</sup>

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<sup>1</sup> In some cities with special charters the place of the recorder's court is taken by a city court presided over by a city judge.

CONSTITUTION  
OF THE  
STATE OF TEXAS.

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PREAMBLE.

HUMBLY invoking the blessings of Almighty God, the people of the State of Texas do ordain and establish this Constitution.

ARTICLE I.

BILL OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. Texas is a free and independent state, subject only to the constitution of the United States; and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government unimpaired to all the states.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

SEC. 3. All free men when they form a social compact have equal rights, and no man or set of men, is entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

SEC. 4. No religious test shall ever be required as a qualification to any office, or public trust, in this state; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

SEC. 5. No person shall be disqualified to give evidence in any of the courts of this state on account of his religious opinions, or for want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

SEC. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

SEC. 7. No money shall be appropriated or drawn from the treasury for the benefit of any sect or religious society, theological or religious seminary ; nor shall property belonging to the state be appropriated for any such purposes.

SEC. 8. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers investigating the conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 9. The people shall be secure in their persons, houses, papers and possessions from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself. He shall have the right of being heard

by himself or eounsel or both; shall be confronted with the witnesses against him, and shall have eompulsory process for obtaining witnesses in his favor. And no person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in eases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual serviee in time of war or publie danger.

SEC. 11. All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident; but this provision shall not be so eonstrued as to prevent bail after indietment found, upon examination of the evidenee in such manner as may be prescribed by law.

SEC. 12. The writ of *habeas corpus* is a writ of right, and shall never be suspended. The legislature shall enaet laws to render the remedy speedy and effectual.

SEC. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law.

SEC. 14. No person, for the same offense, shall be twiee put in jeopardy of life or liberty; nor shall a person be again put upon trial for the same offense after a verdict of not guilty in a eourt of competent jurisdiction.

SEC. 15. The right of trial by jury shall remain inviolate. The legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and effieieney.

SEC. 16. No bill of attainder, *ex post facto* law, retroaetive law, or any law impairing the obligation of eontracts, shall be made.

SEC. 17. No person's property shall be taken, damaged or destroyed for or applied to publie use without adequate eompensoation being made, unless by the eonsent of such person; and, when taken, except for the use of the state, such compensation shall be first made, or seeured by a deposit of money; and no irrevoeable or uneontrollable grant of special privileges or immunitiess shall be made; but all privileges and franchises granted by the legislature, or created under its authority, shall be subjeet to the control thereof.

SEC. 18. No person shall ever be imprisoned for debt.

SEC. 19. No citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

SEC. 20. No citizen shall be outlawed; nor shall any person be transported out of the state for any offense committed within the same.

SEC. 21. No conviction shall work corruption of blood, or forfeiture of estate; and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

SEC. 22. Treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 23. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the state; but the legislature shall have power by law to regulate the wearing of arms with a view to prevent crime.

SEC. 24. The military shall at all times be subordinate to the civil authority.

SEC. 25. No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this state.

SEC. 27. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance.

SEC. 28. No power of suspending laws in this state shall be exercised except by the legislature.

SEC. 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

## ARTICLE II.

## THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

## ARTICLE III.

## LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this state shall be vested in a senate and house of representatives, which together shall be styled "The Legislature of the State of Texas."

SEC. 2. The senate shall consist of thirty-one members, and shall never be increased above this number. The house of representatives shall consist of ninety-three members until the first apportionment after the adoption of this constitution, when, or at any apportionment thereafter, the number of representatives may be increased by the legislature, upon the ratio of not more than one representative for every fifteen thousand inhabitants; *provided*, the number of representatives shall never exceed one hundred and fifty.

SEC. 3. The senators shall be chosen by the qualified electors for the term of four years; but a new senate shall be chosen after every apportionment, and the senators elected after each apportionment shall be divided by lot into two classes. The seats of the senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one-half of the senators shall be chosen biennially thereafter.

SEC. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of their election.

SEC. 5. The legislature shall meet every two years, at such time as may be provided by law, and at other times when convened by the governor.

SEC. 6. No person shall be a senator unless he be a citizen of the United States, and at the time of his election a qualified elector of this state, and shall have been a resident of this state five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

SEC. 7. No person shall be a representative unless he be a citizen of the United States, and at the time of his election a qualified elector of this state, and shall have been a resident of this state two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 8. Each house shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such manner as shall be provided by law.

SEC. 9. The senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members president *pro tempore*, who shall perform the duties of the lieutenant-governor in any case of absence or disability of that officer, and whenever the said office of lieutenant-governor shall be vacant. The house of representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a speaker from its own members; and each house shall choose its other officers.

SEC. 10. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 11. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offense.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

SEC. 13. When vacancies occur in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill any such vacancy within

twenty days after it occurs, the returning officer of the district in which such vacancy may have happened shall be authorized to order an election for that purpose.

SEC. 14. Senators and representatives shall, except in cases of treason, felony or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 15. Each house may punish, by imprisonment, during its sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings; *provided*, such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 16. The sessions of each house shall be open, except the senate when in executive session.

SEC. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may be sitting.

SEC. 18. No senator or representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this state which shall have been created or the emoluments of which may have been increased during such term; no member of either house shall, during the term for which he is elected, be eligible to any office or place, the appointment to which may be made, in whole or in part, by either branch of the legislature; and no member of either house shall vote for any other member for any office whatever, which may be filled by a vote of the legislature, except in such cases as are in this constitution provided. Nor shall any member of the legislature be interested, either directly or indirectly, in any contract with the state, or any county thereof, authorized by any law passed during the term for which he shall have been elected.

SEC. 19. No judge of any court, secretary of state, attorney-general, clerk of any court of record, or any person holding a lucrative office under the United States, or this state, or any foreign government, shall, during the term for which he is elected or appointed, be eligible to the legislature.

SEC. 20. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public

money, shall be eligible to the legislature, or to any office of profit or trust under the state government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been entrusted.

SEC. 21. No member shall be questioned in any other place for words spoken in debate in either house.

SEC. 22. A member who has a personal or private interest in any measure or bill, proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 23. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

SEC. 24. The members of the legislature shall receive from the public treasury such compensation for their services as may from time to time be provided by law, not exceeding five dollars per day for the first sixty days of each session; and after that not exceeding two dollars per day for the remainder of the session; except the first session held under this constitution, when they may receive not exceeding five dollars per day for the first ninety days, and after that not exceeding two dollars per day for the remainder of the session. In addition to the per diem, the members of each house shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed five dollars for every twenty-five miles, the distance to be computed by the nearest and most direct route of travel by land regardless of railways or water routes; and the comptroller of the state shall prepare and preserve a table of distances to each county seat now or hereafter to be established, and by such table the mileage of each member shall be paid; but no member shall be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session.

SEC. 25. The state shall be divided into senatorial districts of contiguous territory according to the number of qualified electors, as nearly as may be, and each district shall be entitled to elect one senator, and no single county shall be entitled to more than one senator.

SEC. 26. The members of the house of representatives shall be apportioned among the several counties, according to the number

of population in each, as nearly as may be, on a ratio obtained by dividing the population of the state, as ascertained by the most recent United States census, by the number of members of which the house is composed; *provided*, that whenever a single county has sufficient population to be entitled to a representative, such county shall be formed into a separate representative district, and when two or more counties are required to make up the ratio of representation, such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more representatives, such representative or representatives shall be apportioned to such county, and for any surplus of population it may be joined in a representative district with any other contiguous county or counties.

SEC. 27. Elections for senators and representatives shall be general throughout the state, and shall be regulated by law.

SEC. 28. The legislature shall, at its first session after the publication of each United States decennial census, apportion the state into senatorial and representative districts, agreeably to the provisions of sections 25 and 26 of this article; and until the next decennial census, when the first apportionment shall be made by the legislature, the state shall be and it is hereby divided into senatorial and representative districts as provided by an ordinance of the convention on that subject.

#### PROCEEDINGS.

SEC. 29. The enacting clause of all laws shall be, "Be it enacted by the legislature of the State of Texas."

SEC. 30. No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

SEC. 31. Bills may originate in either house, and when passed by such house may be amended, altered or rejected by the other.

SEC. 32. No bill shall have the force of a law until it has been read on three several days in each house, and free discussion allowed thereon; but in cases of imperative public necessity (which necessity shall be stated in a preamble, or in the body of the bill), four-fifths of the house in which the bill may be pending may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

SEC. 33. All bills for raising revenue shall originate in the

house of representatives, but the senate may amend or reject them as other bills.

SEC. 34. After a bill has been considered and defeated by either house of the legislature, no bill containing the same substance shall be passed into a law during the same session. After a resolution has been acted on and defeated, no resolution containing the same substance shall be considered at the same session.

SEC. 35. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 36. No law shall be revived or amended by reference to its title; but in such case the act revived or the section or sections amended shall be re-enacted and published at length.

SEC. 37. No bill shall be considered, unless it has been first referred to a committee and reported thereon; and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the legislature.

SEC. 38. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read before signing; and the fact of signing shall be entered on the journals.

SEC. 39. No law passed by the legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless, in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

SEC. 40. When the legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session, or presented to them by the governor; and no such session shall be of longer duration than thirty days.

SEC. 41. In all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

#### REQUIREMENTS AND LIMITATIONS.

SEC. 42. The legislature shall pass such laws as may be necessary to carry into effect the provisions of this constitution.

SEC. 43. The first session of the legislature under this constitution shall provide for revising, digesting and publishing the laws, civil and criminal; and a like revision, digest and publication may be made every ten years thereafter; *provided*, that in the adoption of and giving effect to any such digest or revision, the legislature shall not be limited by sections 35 and 36 of this article.

SEC. 44. The legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in this constitution, but shall not grant extra compensation to any officer, agent, servant or public contractor, after such public service shall have been performed or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the state, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the state unless authorized by pre-existing law.

SEC. 45. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the legislature shall pass laws for that purpose.

SEC. 46. The legislature shall, at its first session after the adoption of this constitution, enact effective vagrant laws.

SEC. 47. The legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this state, as well as the sale of tickets in lotteries, gift enterprises or other evasions involving the lottery principle, established or existing in other states.

SEC. 48. The legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

The payment of all interest upon the bonded debt of the state;

The erection and repairs of public buildings;

The benefit of the sinking fund, which shall not be more than two per centum of the public debt; and for the payment of the present floating debt of the state, including matured bonds for the payment of which the sinking fund is inadequate;

The support of public schools, in which shall be included colleges and universities established by the state; and the maintenance and support of the Agricultural and Mechanical College of Texas;

The payment of the cost of assessing and collecting the revenue; and the payment of all officers, agents and employees of the state government, and all incidental expenses connected therewith;

The support of the blind asylum, the deaf and dumb asylum, and the insane asylum, the state cemetery and the public grounds of the state;

The enforcement of quarantine regulations on the coast of Texas;

The protection of the frontier.

SEC. 49. No debt shall be created by or on behalf of the state, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the state in war, or pay existing debt; and the debt created to supply deficiencies in the revenue shall never exceed in the aggregate at any one time two hundred thousand dollars.

SEC. 50. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the state in aid of, or to any person, association or corporation, whether municipal or other; or to pledge the credit of the state, in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 51. The legislature shall have no power to make any grant, or authorize the making of any grant of public money to any individual, association of individuals, municipal, or other corporation whatsoever: *provided, however*, the legislature may grant aid to the establishment and maintenance of a home for indigent and disabled Confederate soldiers or sailors who are or may be *bona fide* residents of the State of Texas, under such regulations and limitations as may be provided by law: *provided*, that such grant shall not exceed the sum of \$100,000 for any one year:

*and provided further, that the provisions of this section shall not be construed so as to prevent the grant of aid in case of public calamity. [As amended in 1895.]*

SEC. 52. The legislature shall have no power to authorize any county, city, town, or other political corporation or subdivision of the state, to lend its credit or to grant public money or thing of value, in aid of or to any individual, association or corporation whatsoever; or to become a stockholder in such corporation, association or company.

SEC. 53. The legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered, or a contract has been entered into, and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the state, under any agreement or contract made without authority of law.

SEC. 54. The legislature shall have no power to release or alienate any lien held by the state upon any railroad, or in anywise change the tenor or meaning or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

SEC. 55. The legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this state, or to any county, or other municipal corporation therein.

SEC. 56. The legislature shall not, except as otherwise provided in this constitution, pass any local or special law, authorizing—

The creation, extension or impairing of liens;  
Regulating the affairs of counties, cities, towns, wards or school districts;

Changing the names of persons or places;  
Changing the venue in civil or criminal cases;  
Authorizing the laying out, opening, altering or maintaining of roads, highways, streets, or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other state;

Vacating roads, town plats, streets or alleys;

Relating to cemeteries, graveyards, or public grounds not of the state ;

Authorizing the adoption or legitimation of children ;

Locating or changing county seats ;

Incorporating cities, towns or villages, or changing their charters ;

For the opening and conducting of elections, or fixing or changing the places of voting ;

Granting divorces ;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts ;

Changing the law of descent or succession ;

Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate ;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables ;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes ;

Fixing the rate of interest ;

Affecting the estates of minors, or persons under disability ;

Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury ;

Exempting property from taxation ;

Regulating labor, trade, mining and manufacturing ;

Declaring any named person of age ;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability ;

Giving effect to informal or invalid wills or deeds ;

Summoning or impanelling grand or petit juries ;

For limitation of civil or criminal actions ;

For incorporating railroads or other works of internal improvements ;

And in all other cases where a general law can be made applica-

ble, no local or special law shall be enacted; *provided*, that nothing herein contained shall be construed to prohibit the legislature from passing special laws for the preservation of the game and fish of this state in certain localities.

SEC. 57. No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the legislature before such act shall be passed.

SEC. 58. The legislature shall hold its sessions at the city of Austin, which is hereby declared to be the seat of government.

## ARTICLE IV.

### EXECUTIVE DEPARTMENT.

SECTION 1. The executive department of the state shall consist of a governor, who shall be the chief executive officer of the state, a lieutenant-governor, secretary of state, comptroller of public accounts, treasurer, commissioner of the general land office, and attorney-general.

SEC. 2. All the above officers of the executive department (except secretary of state) shall be elected by the qualified voters of the state at the time and places of election for members of the legislature.

SEC. 3. The returns of every election for said executive officers, until otherwise provided by law, shall be made out, sealed up, and transmitted, by the returning officers prescribed by law, to the seat of government, directed to the secretary of state, who shall deliver the same to the speaker of the house of representatives, as soon as the speaker shall be chosen; and the said speaker shall, during the first week of the session of the legislature, open and publish them in the presence of both houses of the legislature. The person voted for at said election having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the speaker, under sanction of the legislature, to be elected to said office. But if two or more

persons shall have the highest and an equal number of votes for either of said offices, one of them shall be immediately chosen to such office by joint vote of both houses of the legislature. Contested elections for either of said offices shall be determined by both houses of the legislature in joint session.

SEC. 4. The governor shall be installed on the first Tuesday after the organization of the legislature, or as soon thereafter as practicable, and shall hold his office for the term of two years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the United States, and shall have resided in this state at least five years immediately preceding his election.

SEC. 5. He shall, at stated times, receive as compensation for his services an annual salary of four thousand dollars, and no more, and shall have the use and occupation of the governor's mansion, fixtures and furniture.

SEC. 6. During the time he holds the office of governor he shall not hold any other office, civil, military or corporate; nor shall he practice any profession, and receive compensation, reward, fee, or the promise thereof, for the same; nor receive any salary, reward or compensation, or the promise thereof, from any person or corporation, for any service rendered or performed during the time he is governor, or to be thereafter rendered or performed.

SEC. 7. He shall be commander-in-chief of the military forces of the state, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the state, to suppress insurrection, repel invasion, and protect the frontier from hostile incursions by Indians or other predatory bands.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature at the seat of government, or at a different place in case that should be in possession of the public enemy, or in case of the prevalence of disease thereat. His proclamation therefor shall state specifically the purpose for which the legislature is convened.

SEC. 9. The governor shall, at the commencement of each session of the legislature, and at the close of his term of office, give to the legislature information, by message, of the condition of the state; and he shall recommend to the legislature such measures

as he may deem expedient. He shall account to the legislature for all public moneys received and paid out by him from any funds subject to his order, with vouchers; and shall accompany his message with a statement of the same. And at the commencement of each regular session he shall present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 10. He shall cause the laws to be faithfully executed; and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the state with other states and with the United States.

SEC. 11. In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves, commutations of punishment, and pardons; and under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. With the advice and consent of the senate, he may grant pardons in cases of treason, and to this end he may respite a sentence therefor, until the close of the succeeding session of the legislature; *provided*, that in all cases of remissions of fines and forfeitures, or grants of reprieve, commutation of punishment or pardon, he shall file in the office of the secretary of state his reasons therefor.

SEC. 12. All vacancies in state or district offices, except members of the legislature, shall be filled, unless otherwise provided by law, by appointment of the governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the senate present. If made during the recess of the senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the senate, the governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the senate; but may appoint some other person to fill the vacancy until the next session of the senate, or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.

SEC. 13. During the session of the legislature the governor

shall reside where its sessions are held, and at all other times at the seat of government, except when by act of the legislature he may be required or authorized to reside elsewhere.

SEC. 14. Every bill which shall have passed both houses of the legislature shall be presented to the governor for his approval. If he approve, he shall sign it; but if he disapprove it, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return; in which case it shall be a law unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the governor contains several items of appropriation, he may object to one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately considered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each house, the same shall be part of the law notwithstanding the objections of the governor. If any such bill, containing several items of appropriation, not having been presented to the governor ten days (Sundays excepted) prior to adjournment, be in the hands of the governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof,

and make proclamation of the same, and such item or items shall not take effect.

SEC. 15. Every order, resolution or vote to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, shall be approved by him; or, being disapproved, shall be repassed by both houses; and all the rules, provisions and limitations shall apply thereto as prescribed in the last preceding section in the case of a bill.

SEC. 16. There shall also be a lieutenant-governor, who shall be chosen at every election for governor, by the same electors, in the same manner, continue in office for the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the senate, and shall have, when in committee of the whole, a right to debate and vote on all questions; and when the senate is equally divided to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the governor to serve, or of his impeachment or absence from the state, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor until another be chosen at the periodical election, and be duly qualified; or until the governor impeached, absent or disabled, shall be acquitted, return, or his disability be removed.

SEC. 17. If, during the vacancy in the office of governor, the lieutenant-governor should die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the state, the president of the senate, for the time being, shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, while he acts as president of the senate, receive for his services the same compensation and mileage which shall be allowed to the members of the senate, and no more; and during the time he administers the government as governor, he shall receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president, for the time being, of the senate, shall, during the time he administers the government, receive in like manner the same

compensation which the governor would have received had he been employed in the duties of his office.

SEC. 18. The lieutenant-governor or president of the senate succeeding to the office of governor shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this constitution on the governor.

SEC. 19. There shall be a seal of the state, which shall be kept by the secretary of state, and used by him officially under the direction of the governor. The seal of the state shall be a star of five points, encircled by olive and live oak branches, and the words "The State of Texas."

SEC. 20. All commissions shall be in the name and by the authority of the State of Texas, sealed with the state seal, signed by the governor, and attested by the secretary of state.

SEC. 21. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall continue in office during the term of service of the governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the legislature or either house thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary of two thousand dollars, and no more.

SEC. 22. The attorney-general shall hold his office for two years and until his successor is duly qualified. He shall represent the state in all suits and pleas in the supreme court of the state in which the state may be a party, and shall especially inquire into the charter rights of all private corporations, and, from time to time, in the name of the state, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power, or demanding or collecting any species of taxes, toll, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services

an annual salary of two thousand dollars, and no more, besides such fees as may be prescribed by law; *provided*, that the fees which he may receive shall not amount to more than two thousand dollars annually.

SEC. 23. The comptroller of public accounts, the treasurer, and the commissioner of the general land office, shall each hold office for the term of two years, and until his successor is qualified; receive an annual salary of two thousand and five hundred dollars, and no more; reside at the capital of the state during his continuance in office; and perform such duties as are or may be required of him by law. They and the secretary of state shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section, or in his office, shall be paid when received, into the state treasury.

SEC. 24. An account shall be kept by the officers of the executive department, and by all officers and managers of state institutions, of all moneys and choses in action received and disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the governor under oath. The governor may at any time require information in writing from any and all of said officers or managers, upon any subject relating to the duties, condition, management and expenses of their respective offices and institutions, which information shall be required by the governor under oath, and the governor may also inspect their books, accounts, vouchers and public funds; and any officer or manager who at any time shall wilfully make a false report or give false information, shall be guilty of perjury, and so adjudged and punished accordingly, and removed from office.

SEC. 25. The legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds, and providing for their suspension from office on reasonable cause shown, and for the appointment of temporary incumbents of their offices during such suspension.

SEC. 26. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public for each county, who shall perform such duties as now are or may be prescribed by law.

## ARTICLE V.

## JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this state shall be vested in one supreme court, in courts of civil appeals, in a court of criminal appeals, in district courts, in county courts, in commissioners' courts, in courts of justices of the peace, and in such other courts as may be provided by law. The criminal district court of Galveston and Harris counties shall continue with the district, jurisdiction, and organization now existing by law until otherwise provided by law. The legislature may establish such other courts as it may deem necessary, and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto. *[As amended in 1891.]*

SEC. 2. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief justice or associate justice of the supreme court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court, or such lawyer and judge together, at least seven years. Said chief justice and associate justices shall be elected by the qualified voters of the state at a general election, shall hold their offices six years or until their successors are elected and qualified, and shall each receive an annual salary of four thousand dollars until otherwise provided by law. In case of a vacancy in the office of chief justice of the supreme court the governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The judges of the supreme court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present constitution, and until their successors are elected and qualified. *[As amended in 1891.]*

SEC. 3. The supreme court shall have appellate jurisdiction only, except as herein specified, which shall be co-extensive with the limits of the state. Its appellate jurisdiction shall extend to questions of law arising in cases of which the courts of civil appeals

have appellate jurisdiction, under such restrictions and regulations as the legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the supreme court shall extend to questions of law arising in the cases in the courts of civil appeals in which the judges of any court of civil appeals may disagree, or where the several courts of civil appeals may hold differently on the same question of law, or where a statute of the state is held void. The supreme court and the justices thereof shall have power to issue writs of *habeas corpus* as may be prescribed by law, and under such regulations as may be prescribed by law the said courts and the justices thereof may issue the writs of *mandamus*, *procedendo*, *certiorari*, and such other writs as may be necessary to enforce its jurisdiction. The legislature may confer original jurisdiction on the supreme court to issue writs of *quo warranto* and *mandamus* in such cases as may be specified, except as against the governor of the state. The supreme court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The supreme court shall sit for the transaction of business from the first Monday in October of each year until the last Saturday of June in the next year, inclusive, at the capital of the state. The supreme court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter be required by law, and he may hold his office for four years, and shall be subject to removal by said court for good cause, entered of record on the minutes of said court, who shall receive such compensation as the legislature may provide. [As amended in 1891.]

SEC. 4. The court of criminal appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court; said judges shall have the same qualifications and receive the same salaries as the judges of the supreme court. They shall be elected by the qualified voters of the state at a general election, and shall hold their offices for a term of six years. In case of a vacancy in the office of a judge of the court of criminal appeals the governor shall fill such vacancy by appointment for the unexpired term. The judges of the court of appeals who may be in office at the time when this amendment takes effect shall continue in office until the expiration of their term of office under the

present constitution and laws as judges of the court of criminal appeals. [As amended in 1891.]

SEC. 5. The court of criminal appeals shall have appellate jurisdiction co-extensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law. The court of criminal appeals and the judges thereof shall have the power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The court of criminal appeals shall have power, upon affidavit or otherwise, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction. The court of criminal appeals shall sit for the transaction of business from the first Monday in October to the last Saturday of June in each year, at the state capital and two other places (or the capital city) if the legislature shall hereafter so provide. The court of criminal appeals shall appoint a clerk for each place at which it may sit, and each clerk shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for four years unless sooner removed by the court for good cause, entered of record on the minutes of said court. [As amended in 1891.]

SEC. 6. The legislature shall, as soon as practicable after the adoption of this amendment, divide the state into not less than two nor more than three supreme judicial districts, and thereafter into such additional districts as the increase of population and business may require, and shall establish a court of civil appeals in each of said districts, which shall consist of a chief justice and two associate justices, who shall have the qualifications as herein prescribed for justices of the supreme court. Said court of civil appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all civil cases of which the district courts or county courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law; *provided*, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Each of said courts of civil appeals shall hold its sessions at a place in its district to be designated by the legislature, and at such time as may be prescribed by law. Said justices shall be elected by the qualified voters of their respec-

tive districts, at a general election, for a term of six years, and shall receive for their services the sum of three thousand five hundred dollars per annum until otherwise provided by law. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law. Each court of civil appeals shall appoint a clerk, in the same manner as the clerk of the supreme court, which clerk shall receive such compensation as may be fixed by law. Until the organization of the courts of civil appeals and criminal appeals, as herein provided for, the jurisdiction, power, and organization and location of the supreme court, the court of appeals, and the commission of appeals shall continue as they were before the adoption of this amendment. All civil cases which may be pending in the court of appeals shall, as soon as practicable after the organization of the courts of civil appeals, be certified to and the records thereof transmitted to the proper courts of civil appeals, to be decided by said courts. At the first session of the supreme court, the court of criminal appeals, and such of the courts of civil appeals which may be hereafter created under this article after the first election of the judges of such courts under this amendment, the terms of office of the judges of each court shall be divided into three classes, and the justices thereof shall draw for the different classes. Those who shall draw class No. 1 shall hold their offices two years, those drawing class No. 2 shall hold their offices for four years, and those who may draw class No. 3 shall hold their offices for six years from the date of their election and until their successors are elected and qualified; and thereafter each of the said judges shall hold his office for six years, as provided in this constitution. *[As amended in 1891.]*

SEC. 7. The state shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a general election, a judge, who shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding his election; who shall have resided in the district in which he was elected for two years next preceding his election; who shall reside in his district during his term of office; who shall hold his office for the period of four years, and shall receive for his services an

annual salary of two thousand five hundred dollars, until otherwise changed by law. He shall hold the regular terms of his court at the county seat of each county in his district at least twice in each year, in such manner as may be prescribed by law. The legislature shall have power by general or special laws to authorize the holding of special terms of the court, or the holding of more than two terms in any county for the dispatch of business. The legislature shall also provide for the holding of district court when the judge thereof is absent, or is from any cause disabled or disqualified from presiding. The district judges who may be in office when this amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment. [As amended in 1891.]

SEC. 8. The district court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the state to recover penalties, forfeitures, and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration, or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections; and said court and the judges thereof shall have power to issue writs of *habeas corpus*, *mandamus*, injunction, and *certiorari*, and all writs necessary to enforce their jurisdiction. The district court shall have appellate jurisdiction and general control in probate matters over the county court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators, and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law. The district court shall have appellate jurisdiction and general supervisory control over the county commissioners' court, with such exceptions and under such regulations

as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this constitution, and such other jurisdiction, original and appellate, as may be provided by law. *[As amended in 1891.]*

SEC. 9. There shall be a clerk for the district court of each county, who shall be elected by the qualified voters for the state and county officers, and who shall hold his office for two years, subject to removal by information, or by indictment of a grand jury, and conviction by a petit jury. In case of vacancy the judge of the district court shall have the power to appoint a clerk, who shall hold until the office can be filled by election.

SEC. 10. In the trial of all causes in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be impanelled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum and with such exceptions as may be prescribed by the legislature.

SEC. 11. No judge shall sit in any case wherein he may be interested, or when either of the parties may be connected with him either by affinity or consanguinity within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the supreme court, the court of criminal appeals, the court of civil appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the governor of the state, who shall immediately commission the requisite number of persons learned in the law, for the trial and determination of such cause or causes. When a judge of the district court is disqualified by any of the causes above stated, the parties may, by consent appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices filled, as may be prescribed by law. *[As amended in 1891.]*

SEC. 12. All judges of courts of this state [shall], by virtue of their office, be conservators of the peace throughout the state.

The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude "against the peace and dignity of the state." *[As amended in 1891.]*

SEC. 13. Grand and petit juries in the district courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the district courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors, not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; *provided*, that the legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

SEC. 14. The judicial districts in this state and the time of holding the courts therein are fixed by ordinances forming part of this constitution, until otherwise provided by law.

SEC. 15. There shall be established in each county in this state a county court, which shall be a court of record; and there shall be elected in each county by the qualified voters, a county judge, who shall be well informed in the law of the state, shall be a conservator of the peace, and shall hold his office for two years, and until his successor shall be elected and qualified. He shall receive as a compensation for his services such fees and perquisites as may be prescribed by law.

SEC. 16. The county court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice's court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200; and they shall have exclusive jurisdiction in all civil cases when the matter in controversy shall exceed in value \$200 and not exceed \$500, exclusive of interest; and concurrent jurisdiction with the district court when the matter in controversy shall exceed \$500 and not exceed \$1000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which justices' courts have original jurisdiction, but of such civil cases,

only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from justice's court there shall be a trial *de novo* in the county court, and appeals may be prosecuted from the final judgment rendered in such cases by the county court, as well as all cases civil and criminal of which the county court has exclusive or concurrent or original jurisdiction of civil appeals in civil cases to the court of civil appeals and in such criminal cases to the court of criminal appeals, with such exceptions and under such regulations as may be prescribed by law. The county court shall have the general jurisdiction of a probate court. They shall probate wills, appoint guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons: and to apprentice minors, as provided by law; and the county court or judge thereof shall have power to issue writs of injunction, *mandamus*, and all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of *habeas corpus* in cases where the offense charged is within the jurisdiction of the county court or any other court or tribunal inferior to said court. The county court shall not have criminal jurisdiction in any county where there is a criminal district court unless expressly conferred by law; and in such counties appeals from justices' courts and other inferior courts and tribunals in criminal cases shall be to the criminal district court, under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such district court to the court of criminal appeals. When the judge of the county court is disqualified in any case pending in the county court the parties interested may by consent appoint a proper person to try said case, or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. [As amended in 1891.]

SEC. 17. The county court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation, as may be provided by law, and said court shall hold a term for criminal business once

in every month, as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries impanelled in the district courts shall inquire into misdemeanors, and all indictments therefor returned into the district courts shall forthwith be certified to the county courts, or other inferior courts having jurisdiction to try them, for trial; and if such indictment be quashed in the county or other inferior court, the person charged shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the county court shall consist of six men; but no jury shall be impanelled to try a civil case, unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

SEC. 18. Each organized county in the state, now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. The present county courts shall make the first division. Subsequent divisions shall be made by the commissioners' court provided for by this constitution. In each such precinct there shall be elected, at each biennial election, one justice of the peace and one constable, each of whom shall hold his office for two years and until his successor shall be elected and qualified; *provided*, that in any precinct in which there may be a city of eight thousand or more inhabitants, there shall be elected two justices of the peace. Each county shall in like manner be divided into four commissioners' precincts, in each of which there shall be elected by the qualified voters thereof one county commissioner, who shall hold his office for two years and until his successor shall be elected and qualified. The county commissioners so chosen, with the county judge as presiding officer, shall compose the county commissioner's court, which shall exercise such powers and jurisdiction over all county business as is conferred by this constitution and the laws of the state, or as may be hereafter prescribed.

SEC. 19. Justices of the peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which

exclusive original jurisdiction is not given to the district or county courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the county courts shall be allowed in all cases decided in justices' courts where the judgment is for more than twenty dollars, exclusive of costs, and in all criminal cases, under such regulations as may be prescribed by law. And the justices of the peace shall be *ex officio* notaries public; and they shall hold their courts at such times and places as may be provided by law.

SEC. 20. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for two years, who shall be clerk of the county and commissioners' courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the legislature, and a vacancy in whose office shall be filled by the commissioners' court, until the next general election for county and state officers; *provided*, that in counties having a population of less than eight thousand persons there may be an election of a single clerk, who shall perform the duties of district and county clerks.

SEC. 21. A county attorney, for counties in which there is not a resident criminal district attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the governor, and hold his office for the term of two years. In case of vacancy the commissioners' court of the county shall have power to appoint a county attorney until the next general election. The county attorneys shall represent the state in all cases in the district and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a district attorney, the respective duties of district attorneys and county attorneys shall, in such counties, be regulated by the legislature. The legislature may provide for the election of district attorneys in such districts as may be deemed necessary, and make provision for the compensation of district attorneys and county attorneys; *provided*, district attorneys shall receive an annual salary of five hundred dollars, to be paid by the state, and such fees, commissions and perquisites as may be provided by law. County attorneys shall receive as compensation only such fees, commissions and perquisites as may be prescribed by law.

SEC. 22. The legislature shall have power, by local or general

law, to increase, diminish or change the civil and criminal jurisdiction of county courts ; and in cases of any such change of jurisdiction the legislature shall also conform the jurisdiction of the other courts to such change.

SEC. 23. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for the term of two years, whose duties, and perquisites, and fees of office, shall be prescribed by the legislature, and vacancies in whose office shall be filled by the commissioners' court until the next general election for county or state officers.

SEC. 24. County judges, county attorneys, clerks of the district and county courts, justices of the peace, constables, and other county officers, may be removed by the judges of the district courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

SEC. 25. The supreme court shall have power to make and establish rules of procedure, not inconsistent with the laws of the state, for the government of said court and the other courts of this state, to expedite the dispatch of business therein. *[As amended in 1891.]*

SEC. 26. The state shall have no right of appeal in criminal cases.

SEC. 27. The legislature shall at its first session, provide for the transfer of all business, civil and criminal, pending in district courts, over which jurisdiction is given by this constitution to the county courts or other inferior courts, to such county or inferior courts and for the trial or disposition of all such causes by such county or other inferior courts.

SEC. 28. Vacancies in the office of judges of the supreme court, the court of criminal appeals, the court of civil appeals, and district courts, shall be filled by the governor until the next succeeding general election, and vacancies in the office of county judge and justices of the peace shall be filled by the commissioners' court until the next general election for such offices. *[As amended in 1891.]*

SEC. 29. The county court shall hold at least four terms for both civil and criminal business annually, as may be provided by the legislature, or by the commissioners' court of the county under authority of law, and such other terms each year as may be

fixed by the commissioners' court: *provided*, the commissioners' court of any county having fixed the times and number of terms of the county court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Prosecutions may be commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men. Until otherwise provided, the terms of the county court shall be held on the first Mondays in February, May, August and November, and may remain in session three weeks. [Adopted in 1883.]

## ARTICLE VI.

### SUFFRAGE.

SECTION 1. The following classes of persons shall not be allowed to vote in this state, to-wit:

First—Persons under twenty-one years of age.

Second—Idiots and lunatics.

Third—All paupers supported by any county.

Fourth—All persons convicted of any felony, subject to such exceptions as the legislature may make.

Fifth—All soldiers, marines and seamen employed in the service of the army or navy of the United States.

SEC 2. Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this state one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector. And every male person of foreign birth subject to none of the foregoing disqualifications, who, not less than six months before an election in which he offers to vote, shall have declared his intention to become a citizen of the United States in accordance with the Federal naturalization laws, and shall have resided in this state one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election precinct of their residence: *provided*, that electors living in any unorganized county may vote at any election precinct in the county to which such county is attached for judicial purposes. [As amended in 1896.]

SEC. 3. All qualified electors of the state, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town, shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; *provided*, that no poll tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

SEC. 4. In all elections by the people the vote shall be by ballot, and the legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot-box; and the legislature may provide by law for the registration of all voters in all cities containing a population of ten thousand inhabitants or more. *[As amended in 1891.]*

SEC. 5. Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

## ARTICLE VII.

### EDUCATION—THE PUBLIC FREE SCHOOLS.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

SEC. 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the state out of grants heretofore made or that may hereafter be made to railroads, or other corporations, of any nature whatsoever; one-half of the public domain of the state; and all sums of money that may come to the state from the sale of any portion of the same, shall constitute a perpetual public school fund.

SEC. 3. One-fourth of the revenue derived from the state occupation taxes, and a poll tax of one dollar on every male inhabitant of this state between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free

schools, and, in addition thereto, there shall be levied and collected an annual *ad valorem* state tax of such an amount, not to exceed twenty cents on the one hundred dollars valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this state for a period of not less than six months in each year; and the legislature may also provide for the formation of school districts within all or any of the counties of this state, by general or special law, without the local notice required in other cases of special legislation, and may authorize an additional annual *ad valorem* tax to be levied and collected within such school districts for the further maintenance of public free schools and the erection of school buildings therein; *provided*, that two thirds of the qualified property tax-paying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year twenty cents on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts. [As amended in 1883.]

SEC. 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the legislature shall not have power to grant any relief to purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the board of education herein provided for, in the bonds of the United States, the State of Texas, or counties in said state, or in such other securities, and under such restrictions as may be prescribed by law; and the state shall be responsible for all investments. [As amended in 1883.]

SEC. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the legislature may add not exceeding one per cent. annually of the total value of the permanent school fund; such value to be ascertained by the board of education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted

appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law. *[As amended in 1891.]*

SEC. 6. All lands heretofore or hereafter granted to the several counties of this state for educational purposes, are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the commissioners' court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said state, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal, shall be available fund. *[As amended in 1883.]*

SEC. 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

SEC. 8. The governor, comptroller, and secretary of state shall constitute a board of education, who shall distribute said funds to the several counties, and perform such other duties concerning public schools as may be prescribed by law.

#### ASYLUMS.

SEC. 9. All lands heretofore granted for the benefit of the lunatic, blind, deaf and dumb, and orphan asylums, together with such donations as may have been or may hereafter be made to either of them, respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support,

maintenance and improvement of said asylums. And the legislature may provide for the sale of the lands and the investment of the proceeds in manner as provided for the sale and investment of school lands in section four of this article.

#### UNIVERSITY.

SEC. 10. The legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a university of the first class, to be located by a vote of the people of this state, and styled "The University of Texas," for the promotion of literature and the arts and sciences, including an agricultural and mechanical department.

SEC. 11. In order to enable the legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of "The University of Texas," together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund. And the same as realized and received into the treasury of the state (together with such sum belonging to the fund as may now be in the treasury), shall be invested in bonds of the State of Texas, if the same can be obtained; if not, then in United States bonds; and the interest accruing thereon shall be subject to appropriation by the legislature to accomplish the purpose declared in the foregoing section; *provided*, that the one-tenth of the alternate sections of the lands granted to railroads, reserved by the state, which were set apart and appropriated to the establishment of "The University of Texas," by an act of the legislature of February 11, 1858, entitled "An act to establish 'The University of Texas,'" shall not be included in or constitute a part of the permanent university fund.

SEC. 12. The land herein set apart to the university fund shall be sold under such regulations, at such times and on such terms as may be provided by law; and the legislature shall provide for the prompt collection, at maturity, of all debts due on account of university lands heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

SEC. 13. The Agricultural and Mechanical College of Texas, established by an act of the legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts and the natural sciences connected therewith. And the legislature shall, at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said college in immediate and successful operation.

SEC. 14. The legislature shall, also, when deemed practicable, establish and provide for the maintenance of a college or branch university for the instruction of the colored youths of the state, to be located by a vote of the people; *provided*, that no tax shall be levied and no money appropriated out of the general revenue, either for this purpose or for the establishment and erection of the buildings of the University of Texas.

SEC. 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart and appropriated, for the endowment, maintenance and support of said university and its branches, one million acres of the unappropriated public domain of the state, to be designated and surveyed as may be provided by law; and said lands shall be sold under the same regulations and the proceeds invested in the same manner as is provided for the sale and investment of the permanent university fund; and the legislature shall not have power to grant any relief to the purchasers of said lands.

## ARTICLE VIII.

### TAXATION AND REVENUE.

SECTION 1. Taxation shall be equal and uniform. All property in this state, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this state. It may also tax incomes of both natural persons and corporations, other than municipal, except that persons engaged in mechanical and

agricultural pursuits shall never be required to pay an occupation tax; *provided*, that two hundred and fifty dollars worth of household and kitchen furniture, belonging to each family in this state shall be exempt from taxation; *and provided further*, that the occupation tax levied by any county, city or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the state for the same period on such profession or business.

SEC. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes (and the necessary furniture of all schools), and institutions of purely public charity; and all laws exempting property from taxation, other than the property above mentioned, shall be void.

SEC. 3. Taxes shall be levied and collected by general laws and for public purposes only.

SEC. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the legislature, by any contract or grant to which the state shall be a party.

SEC. 5. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this state, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies shall have power to require its rendition, and collect the usual municipal tax thereon, as on other property lying within said municipality.

SEC. 6. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first legislature to assemble under this constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth legislature.

SEC. 7. The legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the treasury; and shall make it penal for

any person or persons to borrow, withhold, or in any manner to divert from its purpose, any special fund, or any part thereof.

SEC. 8. All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the road-bed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it shall be apportioned by the comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

SEC. 9. The state tax on property, exclusive of the tax necessary to pay the public debt and of the taxes provided for the benefit of public free schools, shall never exceed thirty-five cents on the one hundred dollars valuation ; and no county, city, or town shall levy more than twenty-five cents for city or county purposes, and not exceed fifteen cents for roads and bridges on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment, September 25, A. D. 1883 ; and for the erection of public buildings, streets, sewers, water works, and other permanent improvements, not to exceed twenty-five cents on the one hundred dollars valuation in any one year, and except as is in this constitution otherwise provided ; and the legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads ; *provided*, that a majority of the qualified property tax paying voters of the county, voting at an election to be held for that purpose, shall vote such tax, not to exceed fifteen cents on the one hundred dollars valuation of the property subject to taxation in such county. And the legislature may pass local laws for the maintenance of public roads and highways without the local notice required for special or local laws. [As amended in 1890.]

SEC. 10. The legislature shall have no power to release the inhabitants of, or property in, any county, city or town, from the payment of taxes levied for state or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each house of the legislature.

SEC. 11. All property, whether owned by persons or corpora-

tions, shall be assessed for taxation and the taxes paid in the county where situated, but the legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the comptroller of public accounts. And all lands, and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

SEC. 12. All property subject to taxation in, and owned by residents of unorganized counties, shall be assessed and the taxes thereon paid in the counties to which such unorganized counties shall be attached for judicial purposes; and lands lying in and owned by non-residents of unorganized counties, and lands lying in the territory not laid off into counties, shall be assessed and the taxes thereon collected at the office of the comptroller of the state.

SEC. 13. Provision shall be made by the first legislature for the speedy sale of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale of all lands and other property upon which the taxes have not been paid, and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud; *provided*, that the former owner shall, within two years from date of purchaser's deed, have the right to redeem the land upon the payment of double the amount of money paid for the land.

SEC. 14. There shall be elected by the qualified electors of each county at the same time and under the same law regulating the election of state and county officers, an assessor of taxes, who shall hold his office for two years and until his successor is elected and qualified.

SEC. 15. The annual assessment made upon landed property shall be a special lien thereon, and all property, both real and personal, belonging to any delinquent tax-payer shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent, under such regulations as the legislature may provide.

SEC. 16. The sheriff of each county, in addition to his other duties, shall be the collector of taxes therefor. But in counties hav-

ing ten thousand inhabitants, to be determined by the last preceding census of the United States, a collector of taxes shall be elected, to hold office for two years and until his successor shall be elected and qualified.

SEC. 17. The specification of the objects and subjects of taxation shall not deprive the legislature of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this constitution.

SEC. 18. The legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation (the county commissioners' court to constitute a board of equalization); and may also provide for the classification of all lands with reference to their value in the several counties

SEC. 19. Farm products in the hands of the producer and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the legislature. *[Adopted in 1879.]*

## ARTICLE IX.

### COUNTIES.

SECTION 1. The legislature shall have power to create counties for the convenience of the people, subject to the following provisions :

First. In the territory of the state exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by pre-existing boundary lines. Should the state lines render this impracticable in border counties, the area may be less. The territory referred to may, at any time, in whole or in part, be divided into counties in advance of population, and attached, for judicial and land surveying purposes, to the most convenient organized county or counties.

Second. Within the territory of any county or counties now existing, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may, in

whole or in part, be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each house of the legislature, taken by yeas and nays, and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it was taken, in such manner as may be prescribed by law.

Third. No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

#### COUNTY SEATS.

SEC. 2. The legislature shall pass laws regulating the manner of removing county seats, but no county seat situated within five miles of the geographical centre of the county shall be removed except by a vote of two-thirds of all the electors voting on the subject. A majority of such electors, however, voting at such election, may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the commissioner of the general land office.

#### ARTICLE X.

##### RAILROADS.

SECTION 1. Any railroad corporation or association, organized under the law for the purpose, shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad; and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination, under such regulations as shall be prescribed by law.

SEC. 2. Railroads heretofore constructed or which may hereafter be constructed in this state are hereby declared public highways and railroad companies common carriers. The legislature shall pass laws to regulate railroad freight and passenger tariffs, to correct abuses, and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce the same by adequate penalties; and to the further accomplishment of these objects and purposes may provide and establish all requisite means and agencies invested with such powers as may be deemed adequate and advisable. *[As amended in 1890.]*

SEC. 3. Every railroad or other corporation, organized or doing business in this state under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporations, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of the transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this state, public notice of which shall be given thirty days previously, and the president or superintendent shall report annually, under oath, to the comptroller or governor, their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 4. The rolling stock and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property, and its real and personal property or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the legislature shall pass no laws exempting any such property from execution and sale.

SEC. 5. No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way con-

trol any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line.

SEC. 6. No railroad company organized under the laws of this state shall consolidate by private or judicial sale or otherwise with any railroad company organized under the laws of any other state or of the United States.

SEC. 7. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad.

SEC. 8. No railroad corporation in existence at the time of the adoption of this constitution shall have the benefit of any future legislation except on condition of complete acceptance of all the provisions of this constitution applicable to railroads.

SEC. 9. No railroad hereafter constructed in this state shall pass within a distance of three miles of any county seat without passing through the same, and establishing and maintaining a depot therein, unless prevented by natural obstacles, such as streams, hills or mountains; *provided*, such town or its citizens shall grant the right of way through its limits and sufficient ground for ordinary depot purposes.

## ARTICLE XI.

### MUNICIPAL CORPORATIONS.

SECTION 1. The several counties of this state are hereby recognized as legal sub-divisions of the state.

SEC. 2. The construction of jails, court-houses and bridges, and the establishment of county poor-houses and farms, and the laying out, construction and repairing of county roads, shall be provided for by general laws.

SEC. 3. No county, city or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in any wise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law.

SEC. 4. Cities and towns having a population of ten thousand inhabitants or less, may be chartered alone by general law. They may levy, assess and collect an annual tax to defray the current expenses of their local government, but such tax shall never exceed, for any one year, one-fourth of one per cent, and shall be collectable only in current money. And all license and occupation tax levied, and all fines, forfeitures, penalties and other dues accruing to cities and towns, shall be collectable only in current money.

SEC. 5. Cities having more than ten thousand inhabitants may have their charters granted or amended by special act of the legislature, and may levy, assess and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful, for any one year, which shall exceed two and one-half per cent of the taxable property of such city; and no debt shall ever be created by any city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent thereon.

SEC. 6. Counties, cities and towns are authorized, in such mode as may now or may hereafter be provided by law, to levy, assess and collect the taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from that levied, assessed and collected for current expenses of municipal government, and shall, when levied, specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds or other indebtedness for the payment of which such tax may have been levied.

SEC. 7. All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized, upon a vote of two-thirds of the tax-payers therein (to be ascertained as may be provided by law), to levy and collect such tax for construction of sea walls, breakwaters or sanitary purposes, as may be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent as a sinking fund; and the condemnation of the right of way for the erection of such works shall be fully provided for.

SEC. 8. The counties and cities on the gulf coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the legislature is especially authorized to aid, by donation of such portion of the public domain as may be deemed proper, and in such mode as may be provided by law, the construction of sea walls or breakwaters, such aid to be proportioned to the extent and value of the works constructed or to be constructed in any locality.

SEC. 9. The property of counties, cities and towns owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public, shall be exempt from forced sale and from taxation; *provided*, nothing herein shall prevent the enforcement of the vendor's lien, the mechanic's or builder's lien, or other liens now existing.

SEC. 10. The legislature may constitute any city or town a separate and independent school district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax may hereafter be levied and collected if, at an election held for that purpose, two-thirds of the tax-payers of such city or town shall vote for such tax.

## ARTICLE XII.

### PRIVATE CORPORATIONS.

SECTION 1. No private corporation shall be created except by general laws.

SEC. 2. General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

SEC. 3. The right to authorize and regulate freights, tolls, wharfage or fares, levied and collected or proposed to be levied and collected by individuals, companies or corporations, for the use of highways, landings, wharves, bridges and ferries, devoted to public use, has never been and shall never be relinquished or

abandoned by the state, but shall always be under legislative control and depend upon legislative authority.

SEC. 4. The first legislature assembled after the adoption of this constitution shall provide a mode of procedure by the attorney-general and district or county attorneys, in the name and behalf of the state, to prevent and punish the demanding and receiving or collection of any and all charges, as freight, wharfage, fares or tolls, for the use of property devoted to the public, unless the same shall have been specially authorized by law.

SEC. 5. All laws granting the right to demand and collect freight, fares, tolls or wharfage, shall at all times be subject to amendment, modification, or repeal by the legislature.

SEC. 6. No corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void.

SEC. 7. Nothing in this article shall be construed to divest or affect rights guaranteed by any existing grant or statute, of this state, or of the Republic of Texas.

### ARTICLE XIII.

#### SPANISH AND MEXICAN LAND TITLES.

SECTION 1. All fines, penalties, forfeitures and escheats, which have heretofore accrued to the Republic and State of Texas, under their constitutions and laws, shall accrue to the state under this constitution ; and the legislature shall provide a method for determining what lands have been forfeited, and for giving effect to escheats ; and all such rights of forfeiture and escheat to the state shall, *ipso facto*, enure to the protection of the innocent holders of junior titles, as provided in sections 2, 3 and 4 of this article.

SEC. 2. Any claim of title or right to land in Texas, issued prior to the 13th day of November, 1835, not duly recorded in the county where the land was situated at the time of such record ; or not duly archived in the general land office ; or not in the actual possession of the grantee thereof, or some person claiming under him, prior to the accruing of junior title thereto from the sovereignty of the soil, under circumstances reasonably calculated to give notice to said junior grantee, has never had, and shall not have, standing or effect against such junior title, or color of title, acquired without such or actual notice of such prior claim of title.

or right; and no condition annexed to such grants, not archived, or recorded, or occupied as aforesaid, has been, or ever shall be released or waived, but actual performance of all such conditions shall be proved by the person or persons claiming under such title or claim of right in order to maintain action thereon, and the holder of such junior title, or color of title, shall have all the rights of the government which have heretofore existed, or now exist, arising from the non-performance of all such conditions.

SEC. 3. Non-payment of taxes on any claim of title to land dated prior to the 13th day of November, 1835, not recorded or archived, as provided in section 2, by the person or persons so claiming, or those under whom he or they so claim, from that date up to the date of the adoption of this constitution, shall be held to be a presumption that the right thereto has reverted to the state, and that said claim is a stale demand, which presumption shall only be rebutted by payment of all taxes on said lands, state, county, and city or town, to be assessed on the fair value of such lands by the comptroller, and paid to him, without commutation or deduction for any part of the above period.

SEC. 4. No claim of title or right to land, which issued prior to the 13th day of November, 1835, which has not been duly recorded in the county where the land was situated at the time of such record, or which has not been duly archived in the general land office, shall ever hereafter be deposited in the general land office, or recorded in this state, or delineated on the maps, or used as evidence in any of the courts of this state, and the same are stale claims; but this shall not affect such rights or presumptions as arise from actual possession. By the words, "duly recorded," as used in sections 2 and 4 of this article, it is meant that such claim of title or right to land shall have been recorded in the proper office, and that mere errors in the certificate of registration, or informality, not affecting the fairness and good faith of the holder thereof, with which the record was made, shall not be held to vitiate such record.

SEC. 5. All claims, locations, surveys, grants and titles of any kind, which are declared null and void by the constitution of the Republic or State of Texas, are, and the same shall remain forever null and void.

SEC. 6. The legislature shall pass stringent laws for the detection and conviction of all forgers of land titles, and may make

such appropriations of money for that purpose as may be necessary.

SEC. 7. Sections 2, 3, 4 and 5 of this article, shall not be so construed as to set aside or repeal any law or laws of the Republic or State of Texas, releasing the claimants of headrights of colonists of a league of land, or less from compliance with the conditions on which their grants were made.

## ARTICLE XIV.

### PUBLIC LANDS AND LAND OFFICE.

SECTION 1. There shall be one general land office in the state, which shall be at the seat of government, where all land titles which have emanated or may hereafter emanate from the state shall be registered, except those titles the registration of which may be prohibited by this constitution. It shall be the duty of the legislature at the earliest practicable time to make the land office self-sustaining, and from time to time the legislature may establish such subordinate offices as may be deemed necessary.

SEC. 2. All unsatisfied genuine land certificates barred by section 4, article 10, of the constitution of 1869, by reason of the holders or owners thereof failing to have them surveyed and returned to the land office by the first day of January, 1875, are hereby revived. All unsatisfied genuine land certificates now in existence shall be surveyed and returned to the general land office within five years after the adoption of this constitution, or be forever barred; and all genuine land certificates hereafter issued by the state shall be surveyed and returned to the general land office within five years after issuance, or be forever barred; *provided*, that all genuine land certificates heretofore or hereafter issued shall be located, surveyed or patented only upon vacant and unappropriated public domain, and not upon any land titled or equitably owned under color of title from the sovereignty of the state, evidence of the appropriation of which is on the county records or in the general land office; or when the appropriation is evidenced by the occupation of the owner, or of some person holding for him.

SEC. 3. The legislature shall have no power to grant any of the lands of this state to any railway company except upon the following restrictions and conditions:

First. That there shall never be granted to any such corporation more than sixteen sections to the mile, and no reservation of

any part of the public domain for the purpose of satisfying such grant shall ever be made.

Second. That no land certificate shall be issued to such company until they have equipped, constructed and in running order at least ten miles of road, and on the failure of such company to comply with the terms of its charter, or to alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forfeited to the state and become a portion of the public domain, and liable to location and survey. The legislature shall pass general laws only, to give effect to the provisions of this section.

SEC. 4. No certificate for land shall be sold at the land office except to actual settlers upon the same, and in lots not to exceed one hundred and sixty acres.

SEC. 5. All lands heretofore or hereafter granted to railway companies, where the charter or law of the state required or shall hereafter require their alienation within a certain period, on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alienated, in conformity with the terms of their charters and the laws under which the grants were made, are hereby declared forfeited to the state, and subject to pre-emption, location and survey, as other vacant lands. All lands heretofore granted to said railroad companies to which no forfeiture was attached, on their failure to alienate, are not included in the foregoing clause, but in all such last-named cases it shall be the duty of the attorney-general, in every instance, where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the state, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings in the county where the seat of government is situated, to forfeit such lands to the state, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the state and become a part of the vacant public domain, liable to pre-emption, location and survey.

SEC. 6. To every head of a family without a homestead there shall be donated one hundred and sixty acres of public land, upon condition that he will select and locate said land, and occupy the same three years, and pay the office fees due thereon. To all single men of eighteen years of age and upwards shall be donated

eighty acres of public land, upon the terms and conditions prescribed for heads of families.

SEC. 7. The State of Texas hereby releases to the owner or owners of the soil all mines and minerals that may be on the same, subject to taxation as other property.

SEC. 8. Persons residing between the Nueces river and the Rio Grande, and owning grants for lands which emanated from the government of Spain, or that of Mexico, which grants have been recognized and validated by the state, by acts of the legislature, approved February 10, 1852, August 15, 1870, and other acts, and who have been prevented from complying with the requirements of said acts by the unsettled condition of the country, shall be allowed until the first day of January, 1880, to complete their surveys and the plots thereof, and to return their field-notes to the general land office, and all claimants failing to do so shall be forever barred; *provided*, nothing in this section shall be so construed as to validate any titles not already valid, or to interfere with the rights of third persons.

## ARTICLE XV.

### IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachment of the governor, lieutenant-governor, attorney-general, treasurer, commissioner of the general land office, comptroller and the judges of the supreme court, court of appeals and district courts, shall be tried by the senate.

SEC. 3. When the senate is sitting as a court of impeachment, the senators shall be on oath, or affirmation, impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit, under this state. A party convicted on impeachment shall also be subject to indictment, trial and punishment, according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The gov-

ernor may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

SEC. 6. Any judge of the district courts of the state who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge, or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the supreme court. The supreme court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths, taken before some judge of a court of record, of not less than ten lawyers, practicing in the courts held by such judge, and licensed to practice in the supreme court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The supreme court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

SEC. 7. The legislature shall provide by law for the trial and removal from office of all officers of this state, the modes for which have not been provided in this constitution.

#### ADDRESS.

SEC. 8. The judges of the supreme court, court of appeals and district courts, shall be removed by the governor on the address of two-thirds of each house of the legislature, for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment; *provided, however,* that the cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journals of each house; *and provided further,* that the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house respectively.

## ARTICLE XVI.

## GENERAL PROVISIONS.

SECTION 1. Members of the legislature and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, ..... do solemnly swear (or affirm), that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ..... according to the best of my skill and ability, agreeably to the constitution and laws of the United States and of this state; and I do further solemnly swear (or affirm), that since the adoption of the constitution of this state, I, being a citizen of this state, have not fought a duel with deadly weapons, within this state nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending: And I furthermore solemnly swear (or affirm), that I have not, directly nor indirectly, paid, offered or promised to pay, contributed nor promised to contribute, any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected (or, if the office is one of appointment, to secure my appointment): So help me God."

SEC. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who may have been or shall hereafter be convicted of bribery, perjury, forgery or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections, and prohibiting under adequate penalties all undue influence therein from power, bribery, tumult, or other improper practice.

SEC. 3. The legislature shall make provision whereby persons convicted of misdemeanors and committed to the county jails in default of payment of fines and costs, shall be required to discharge such fines and costs by manual labor, under such regulations as may be prescribed by law.

SEC. 4. Any citizen of this state who shall after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this state or out of it, or who shall act as second, or knowingly assist in any manner those thus offending, shall be deprived

of the right of suffrage, or of holding any office of trust or profit under this state.

SEC. 5. Every person shall be disqualified from holding any office of profit or trust in this state who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 6. No appropriation for private or individual purposes shall be made. A regular statement under oath, and an account of the receipts and expenditures of all public money, shall be published annually, in such manner as shall be prescribed by law.

SEC. 7. The legislature shall in no case have power to issue "treasury warrants," "treasury notes," or paper of any description intended to circulate as money.

SEC. 8. Each county in the state may provide, in such manner as may be prescribed by law, a manual labor poor-house and farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants.

SEC. 9. Absence on business of the state or of the United States shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this constitution.

SEC. 10. The legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 11. All contracts for a greater rate of interest than ten per centum per annum shall be deemed usurious, and the first legislature after this amendment is adopted shall provide appropriate pains and penalties to prevent the same; but when no rate of interest is agreed upon, the rate shall not exceed six per centum per annum. *[As amended in 1891.]*

SEC. 12. No member of congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this state.

SEC. 13. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 14. All civil officers shall reside within the state, and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

SEC. 15. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 16. No corporate body shall hereafter be created, renewed or extended with banking or discounting privileges.

SEC. 17. All officers within this state shall continue to perform the duties of their offices until their successors shall be duly qualified.

SEC. 18. The rights of property and of action, which have been acquired under the constitution and the laws of the republic and state, shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution of the republic and state, be reinvested, renewed, or reinstated by this constitution; but the same shall remain precisely in the situation in which they were before the adoption of this constitution, unless otherwise herein provided; *and provided further*, that no cause of action heretofore barred shall be revived.

SEC. 19. The legislature shall prescribe by law the qualification of grand and petit jurors.

SEC. 20. The legislature shall at its first session enact a law whereby the qualified voters of any county, justice's precinct, town, city (or such subdivision of a county as may be designated by the commissioner's court of said county) may by a majority vote determine from time to time whether the sale of intoxicating liquors shall be prohibited within the prescribed limits. [As amended in 1891.]

SEC. 21. All stationery and printing, except proclamations and such printing as may be done at the deaf and dumb asylum, paper and fuel used in the legislative and other departments of the government, except the judicial department, shall be furnished

and the printing and binding of the laws, journals and department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contracts; and all such contracts shall be subject to the approval of the governor, secretary of state and comptroller.

SEC. 22. The legislature shall have the power to pass such fence laws, applicable to any subdivision of the state or counties, as may be needed to meet the wants of the people.

SEC. 23. The legislature may pass laws for the regulation of live stock, and the protection of stock-raisers in the stock-raising portion of the state, and exempt from the operation of such laws other portions, sections or counties; and shall have power to pass general and special laws for the inspection of cattle, stock and hides, and for the regulation of brands; *provided*, that any local law thus passed shall be submitted to the freeholders of the section to be affected thereby, and approved by them before it shall go into effect.

SEC. 24. The legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures and convict labor to all these purposes.

SEC. 25. That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing, baling, repairing, or for any other kind of labor or service, of or to any cotton, grain or any other produce or article of commerce in this state, paid or allowed or contracted for, to any common carrier, shipper, merchant, commission merchant, factor, agent, or middle man of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the legislature to pass effective laws punishing all persons in this state who pay, receive, or contract for or respecting the same.

SEC. 26. Every person, corporation or company that may commit a homicide, through wilful act or omission or gross neglect, shall be responsible in exemplary damages to the surviving husband, wife, heirs of his or her body, or such of them as there may

be, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

SEC. 27. In all elections to fill vacancies of office in this state, it shall be to fill the unexpired term only.

SEC. 28. No current wages for personal service shall ever be subject to garnishment.

SEC. 29. The legislature shall provide by law for defining and punishing barratry.

SEC. 30. The duration of all offices not fixed by this constitution shall never exceed two years: *provided*, that when a railroad commission is created by law it shall be composed of three commissioners, who shall be elected by the people at a general election for state officers, and their terms of office shall be six years; *provided*, railroad commissioners first elected after this amendment goes into effect shall hold office as follows: one shall serve two years, and one four years, and one six years, their terms to be decided by lot immediately after they have qualified. And one railroad commissioner shall be elected every two years thereafter. In case of vacancy in said office, the governor of the state shall fill said vacancy by appointment until the next general election.  
[As amended in 1894.]

SEC. 31. The legislature may pass laws prescribing the qualifications of practitioners of medicine in this state, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.

SEC. 32. The legislature may provide by law for the establishment of a board of health and vital statistics, under such rules and regulations as it may deem proper.

SEC. 33. The accounting officers of this state shall neither draw nor pay a warrant upon the treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust or profit, under this state or the United States, except as prescribed in this constitution.

SEC. 34. The legislature shall pass laws authorizing the governor to lease or sell to the government of the United States a sufficient quantity of the public domain of the state necessary for the erection of forts, barracks, arsenals, and military stations or camps, and for other needful military purposes; and the action of

the governor therein shall be subject to the approval of the legislature.

SEC. 35. The legislature shall, at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals and other similar public works, against the failure of contractors and sub-contractors to pay their current wages when due, and to make the corporation, company or individual for whose benefit the work is done, responsible for their ultimate payment.

SEC. 36. The legislature shall, at its first session, provide for the payment or funding, as they may deem best, of the amounts found to be justly due to teachers in the public schools by the state, for service rendered prior to the 1st day of July, 1873, and for the payment by the school districts in the state of amounts justly due teachers of public schools by such district to January, 1876.

SEC. 37. Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them, for the value of their labor done thereon, or material furnished therefor; and the legislature shall provide by law for the speedy and efficient enforcement of said liens.

SEC. 38. The legislature may, at such time as the public interest may require, provide for the office of commissioner of insurance, statistics and history, whose term of office, duties and salary shall be prescribed by law.

SEC. 39. The legislature may, from time to time, make appropriations for preserving and perpetuating memorials of the history of Texas, by means of monuments, statues, printings, and documents of historical value.

SEC. 40. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace, county commissioner, notary public and postmaster, unless otherwise specially provided herein.

SEC. 41. Any person who shall, directly or indirectly offer, give or promise, any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the legislature, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law. And any member of the legislature or executive or judicial officer, who shall solicit, demand or receive, or consent to receive, directly or in-

directly, for himself or for another, from any company, corporation or person, any money, appointment, employment, testimonial, reward, thing of value or employment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit, demand and receive any such money or other advantage, matter or thing aforesaid, for another, as the consideration of his vote or official influence, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, within the meaning of the constitution, and shall incur the disabilities provided for said offences, with a forfeiture of the office they may hold, and such other additional punishment as is or shall be provided by law.

SEC. 42. The legislature may establish an inebriate asylum, for the cure of drunkenness and reform of inebriates.

SEC. 43. No man or set of men shall ever be exempted, relieved or discharged, from the performance of any public duty or service imposed by general law, by any special law. Exemptions from the performance of such public duty or service shall only be made by general law.

SEC. 44. The legislature shall prescribe the duties, and provide for the election, by the qualified voters of each county in this state, of a county treasurer and a county surveyor, who shall have an office at the county seat, and hold their office for two years, and until their successors are qualified; and shall have such compensation as may be provided by law.

SEC. 45. It shall be the duty of the legislature to provide for collecting, arranging and safely keeping such records, rolls, correspondence, and other documents, civil and military, relating to the history of Texas, as may be now in the possession of parties willing to confide them to the care and preservation of the state.

SEC. 46. The legislature shall provide by law for organizing and disciplining the militia of the state, in such manner as they shall deem expedient, not incompatible with the constitution and the laws of the United States.

SEC. 47. Any person who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 48. All laws and parts of laws now in force in the State of Texas, which are not repugnant to the constitution of the United States or to this constitution, shall continue and remain in force as the laws of this state until they expire by their own limitation or shall be amended or repealed by the legislature.

SEC. 49. The legislature shall have power, and it shall be its duty, to protect by law from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

SEC. 50. The homestead of a family shall be, and is hereby protected from forced sale, for the payment of all debts except for the purchase money thereof, or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only when the work and material are contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead; nor shall the owner, if a married man, sell the homestead without the consent of the wife, given in such manner as may be prescribed by law. No mortgage, trust deed or other lien on the homestead shall ever be valid, except for the purchase money therefor, or improvements made thereon, as hereinbefore provided, whether such mortgage, or trust deed, or other lien, shall have been created by the husband alone or together with his wife; and all pretended sales of the homestead involving any condition of defeasance shall be void.

SEC. 51. The homestead not in a town or city shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town or village, shall consist of lot or lots, not to exceed in value five thousand dollars at the time of their designation as the homestead without reference to the value of any improvements thereon; *provided*, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of the family; *provided, also*, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

SEC. 52. On the death of the husband or wife, or both, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among

the heirs of the deceased during the lifetime of the surviving husband or wife, or so long as the survivor may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted, under the order of the proper court having the jurisdiction, to use and occupy the same.

SEC. 53. That no inconvenience may arise from the adoption of this constitution, it is declared that all process and writs of all kinds which have been or may be issued and not returned or executed when this constitution is adopted, shall remain valid, and shall not be in any way affected by the adoption of this constitution.

SEC. 54. It shall be the duty of the legislature to provide for the custody and maintenance of indigent lunatics, at the expense of the state, under such regulations and restrictions as the legislature may prescribe.

SEC. 55. The legislature may provide annual pensions, not to exceed one hundred and fifty dollars per annum, to surviving soldiers or volunteers in the war between Texas and Mexico, from the commencement of the revolution in 1835, until the 1st of January, 1837; and also to the surviving signers of the declaration of independence of Texas; and to the surviving widows, continuing unmarried, of such soldiers and signers; *provided*, that no such pension be granted except to those in indigent circumstances, proof of which shall be made before the county court of the county where the applicant resides, in such manner as may be provided by law.

SEC. 56. The legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a bureau of immigration, or for any purpose of bringing immigrants to this state.

SEC. 57. Three millions acres of the public domain are hereby appropriated and set apart for the purpose of erecting a new state capitol and other necessary public buildings at the seat of government, said lands to be sold under the direction of the legislature; and the legislature shall pass suitable laws to carry this section into effect.

## ARTICLE XVII.

### MODE OF AMENDING THE CONSTITUTION OF THIS STATE.

SECTION 1. The legislature, at any biennial session, by a vote of two-thirds of all the members elected to each house, to be

entered by yeas and nays on the journals, may propose amendments to the constitution, to be voted upon by the qualified electors for members of the legislature, which proposed amendments shall be duly published once a week, for four weeks, commencing at least three months before an election, the time of which shall be specified by the legislature, in one weekly newspaper of each county in which such a newspaper may be published ; and it shall be the duty of the several returning officers of said election to open a poll for, and make returns to the secretary of state of the number of legal votes cast at said election for and against said amendments ; and if more than one be proposed, then the number of votes cast for and against each of them ; and if it shall appear from said return that a majority of the votes cast have been cast in favor of any amendment the said amendment so receiving a majority of the votes cast shall become a part of this constitution, and proclamation shall be made by the governor thereof.

# A P P E N D I X.

## TOPICAL ANALYSIS.



### I. INTRODUCTORY.

Society.	The State : The State, Society Politically Organized.	The State :
		The Constitution.
		The Statutes.

### II. HISTORICAL SKETCH OF TEXAS.

#### I. THE BEGINNINGS, 1682-1727.

Slow Colonizing Work of Spain.	The Name Texas.
The Earliest Colonies : Isleta, 1682.	Possession Secured for Spain by Missions, 1716.
Fort St. Louis, 1685.	Slight Hold of the Spanish.
Missions and Presidios.	Slow Progress of Civilization.

#### II. THE PROVINCE, 1727-1836.

##### THE SPANISH-MEXICAN PERIOD.

###### 1. *Making of the North Mexican States and Organization of their Government, 1675-1819.*

Coahuila and Tamaulipas.	The Boundaries : Northwestern.
Texas made a Separate Province.	The Provincias Internas.
The Boundaries : Southwestern.	Dispute with the United States about
Northeastern.	the Northeastern Boundary.

###### 2. *Coming of the Anglo-Americans, 1800-1831.*

(1) Filibustering Inroads, 1800-1821. Nolan's Expedition, 1800-1801. Magee's Invasion, 1812-1813. The Galveston Island Republic, 1816-1821. Le Champ d'Asile, 1818. Long's Invasion, 1819-1821. Independence of Mexico, 1821; and Union of Coahuila and Texas, 1824.	(2) Colonization, 1821-1831. Austin's Colony : The Grant to Moses Austin, 1821. The Colony Planted by Stephen F. Austin. The First Settlement, 1821. The Grant Confirmed, 1823. Government of the Colony. The Empresario System.
---	---

3. *The Revolution, 1827-1836.*

Troubles of the Mexican Government with the Anglo-Americans.	Demands of the Colonists.
Decrees Obnoxious to the Colonists.	Resistance to Santa Anna's Dictatorship.
The Fredonian War, 1826-1827.	Outbreak of the Revolution, 1835.
Restrictive Policy of Mexico toward the Colonists.	The Consultation, 1835, and the First Provisional Government, 1835-1836.
The Mexican Troops withdrawn from Texas, 1832.	Sam Houston.
	The War with Mexico, 1835-1836.

## III. THE REPUBLIC, 1836-1845.

## THE INDEPENDENT PERIOD.

The Declaration of Independence, March 2, 1836.	The Regular Organization, 1836.
The Constitution of the Republic: General Provisions.	Recognition by Other Powers.
Slavery.	Difficulties of the Independent Republic.
Public Lands.	The Government Reorganized.
Education.	Annexation to the United States, 1845.
The Second Provisional Government, 1836.	

## IV. THE STATE, 1845-

War with Mexico, 1846-1848.	Civil War and Reconstruction, 1861-1870.
The Boundaries of Texas Fixed.	
Except as to Greer County, 1850.	Present and Future of Texas.
Greer County Adjudged to the United States, 1896.	Elements of the Population.
	Resources.
	Prospects.

## III. THE GOVERNMENT OF TEXAS.

## I. FUNCTIONS OF THE GOVERNMENT.

1. Of the State Government.	Public Instruction:
The Self-sustaining Function.	The State University.
The Financial System.	The Agricultural and Mechanical College.
Revenue and Taxation.	The Sam Houston Normal Institute.
Appropriations.	The Prairie View Normal School for Colored Teachers.
The Military System:	Revenue for Educational Purposes:
Rangers.	Permanent Funds.
The Militia.	Available Funds.
The Reserve Militia.	Other Functions.
The Volunteer Guards.	2. Functions of Municipal Government.
Elections.	Nature of Municipal Government.
The Regulative Function:	
Suppression of Crime.	
Regulation of Civil Relations.	
Public Instruction:	
Organization of the System.	
The Public Schools.	

(1) County Government:  
 Local Performance of State Functions by the County.  
 Management of Special County Interests.

(2) City, Town, or Village Government:  
 Police.  
 Taxation.  
 Education.  
 Industrial Functions.

## II. ORGANIZATION OF THE GOVERNMENT.

1. The Popular Political Organization.  
 Political Rights and Privileges:  
 The Citizen.  
 The Voter.  
 The Popular Will:  
 Political Parties.  
 Primaries and Conventions.  
 Mass Meetings.
2. The Official Organization.  
 The Official:  
 Qualifications.  
 Elections.  
 Appointments.  
 Removals.
- (1) The State Government.  
 a. The Legislative:  
 The Legislature.  
 The Senate.  
 The House of Representatives.  
 Law-making:  
 How Bills become Laws.  
 Committee Work.  
 The Governor's Message.  
 The Veto Power.  
 Restrictions upon the Legislature.  
 Filibustering.
- b. The Executive.  
 Functions and Organization:  
 Elected Executive Officials:  
 The Governor.  
 The Lieutenant-governor.  
 The Comptroller of Public Accounts.  
 The State Treasurer.  
 The Commissioner of the General Land Office.  
 The Attorney-general.  
 The State Superintendent of Public Instruction.

Elected Executive Officials:  
 The Railroad Commissioners.  
 Appointed Executive Officials:  
 The Secretary of State.  
 The Commissioner of Agriculture, Insurance, Statistics, and History.  
 The Adjutant-general.  
 The State Health Officer.  
 The Revenue Agent.  
 Administrative Boards:  
 Board of Education.  
 Regents of the University.  
 Directors of the Agricultural and Mechanical College.  
 Local Board of Directors for Sam Houston Normal Institute.  
 Trustees of Asylums.  
 Penitentiary Commissioners.  
 Trustees of the House of Correction and Reformatory.  
 Pardon Advisers.  
 Board of Public Printing.  
 State Board of Equalization.

c. The Judicial.  
 Functions and Organization:  
 The Courts:  
 The Supreme Court.  
 The Court of Criminal Appeals.  
 The Courts of Civil Appeals.  
 District Courts.  
 County Courts.

The Courts:	Public Instruction.
Commissioners' Courts.	The County Surveyor.
Justices' Courts.	Notaries Public.
Mayors' or Recorders' Courts.	The Precinct.
Clerks of the Courts.	The Commissioner's Precinct.
The Jury System.	The Justice's Precinct:
The Grand Jury.	The Justice of the Peace.
The Petit Jury.	The Constable.
(2) Local Government.	b. The City, Town, or Village.
The Organs of Local Government.	Functions and Classification:
Powers of Local Self-Government.	(a) "Towns and Villages."
a. The County.	(b) "Cities and Towns" Incorporated under General Law.
The County at Large:	The City Council.
Relation of the County to the State.	The City Executive and Judicial Officers:
Organization of the County Government:	The Mayor.
The Commissioners' Court in its Administrative Capacity.	The Marshal.
The County Officials:	The Secretary.
The Sheriff.	The Recorder.
The Assessor.	Other Officials.
The Collector.	(c) Cities Incorporated under Special Charters.
The Treasurer.	
The County Attorney.	
The County Superintendent of	



[The references are to paragraphs.]

ADDRESS, REMOVAL BY, 120.  
Adjutant-general, 124.  
Ad valorem taxes, 62.  
Agricultural and Mechanical College, 77.  
Anglo-Americans, 19, 27, 33.  
Annexation, 53.  
Appeal, 129.  
Appointments, 101.  
Appropriations, 63.  
Assessor, 148.  
Asylums, 83.  
Attorney-general, 119.  
Austin, Moses, 28.  
Austin, Stephen F., 29.  
Australian ballot, 69.  
Available funds, 82.

BASTROP, BARON DE, 28.  
Board of Education, 127.  
Board of Public Printing, 127.  
Boundary, northeastern, 15.  
Boundary, northwestern, 16.  
Burnet, David G., 48.

CALL OF THE HOUSE, 112.  
Charge to jury, 139, 140.  
Cities and towns, 87, 162.  
Cities incorporated under special charters, 170.  
Citizen, the, 92.  
City Council, 163.  
City secretary, 167.  
Civil law, 52.  
Civil war, 57.  
Classification of cities, towns, and villages, 87, 160.

Clerks of courts, 137.  
Coahuila, 12, 14.  
Coahuila and Texas, State of, 26.  
Collector, 149.  
Commissioner of agriculture, insurance, statistics, and history, 123.  
Commissioner of general land office, 118.  
Commissioners' courts, 134, 145.  
Committee work, 108.  
Common law, 52.  
Comptroller, 116.  
Confederate Home, 83.  
Constable, 159.  
Constitution of the Republic, 44.  
Constitution, the, 3.  
Consultation, 40.  
Convention of 1836, 43.  
Conventions of 1832 and 1833, 37.  
Cos, General, 39, 40.  
County, a local agency of the State, 85.  
County attorney, 151.  
County courts, 133.  
County government, 85, 86.  
County superintendent of public instruction, 152.  
County surveyor, 153.  
County treasurer, 150.  
Court of criminal appeals, 130.  
Courts of civil appeals, 131.  
Crozat, 9.

DECLARATION OF INDEPENDENCE, 43.

Directors of Agricultural and Mechanical College, 127.

District courts, 132.

EDUCATION, 47, 90.

Edwards, Hayden, 34.

Elections, 69, 100.

Empresario system, 32.

Escandon, 12.

Escolta, 7.

Executive, the, 113.

FANNIN, J. W., 42.

Filibustering inroads into Mexico, 20.

Filibustering, legislative, 112.

Florida, 8.

Fort St. Louis, 6.

Fredonian War, 34.

Functions of city, town, or village government, 87.

Function, regulative, 70.

Function, self-sustaining, 61.

GALVESTON, CRIMINAL COURT OF, 132.

Galveston Island Republic, 23.

Goliad, 39, 42.

Gonzales, 39.

Governor, 114.

Governor's message, 109.

Grand jury, 139.

Greer county, 56.

Gutierrez, Bernardo, 22.

HARRIS, CRIMINAL COURT OF, 132.

Hidalgo, 22.

House of Representatives, 106.

IMPEACHMENT, 102.

Industrial functions of city government, 91.

Isleta, 6.

JUDICIAL, THE, 128.

Jury system, 138.

Justices' courts, 135.

Justice of the peace, 158.

LAFITTE, 23.

Lallemand, 24.

La Salle, 6.

Law-making, 107.

Le Champ d'Asile, 24.

Legislative, the, 103.

Legislature, 104.

Lieutenant-governor, 115.

Local directors of Sam Houston Normal Institute, 127.

Local government, organs of, 141.

Local government, powers of, 142.

Long, James, 25.

Louisiana, 18.

MAGEE, AUGUSTUS, 22.

Marshal, 166.

Mass meetings, 97.

Mayor, 165.

Mayors' courts, 136.

Medina river, 14.

Military system, 64.

Militia, 66.

Missions, 7.

Municipal government, nature of, 84.

NOLAN, PHILIP, 21.

Nominations, 96.

Notaries public, 154.

Nueces river, 14, 54.

Nuevas Filipinas, 8.

OCCUPATION TAXES, 62.

Officials, qualifications of, 99.

Official, the, 98.

PARDON ADVISORS, 127.

Permanent funds, 81.

Petit jury, 140.

Police, 88.

Political parties, 95.

Polk, 53.

Poll tax, 62.  
 Population, 58.  
 Prairie View Normal School for Colored Teachers, 79.  
 Precinct, commissioner's, 156.  
 Precinct, justice's, 157.  
 Presidios, 7.  
 Primaries, 96.  
 Provincias Internas, 17.  
 Provisional government, the first, 40.  
 Provisional government, the second, 48.  
 Public instruction, 73.  
 Public lands, 46.  
 Public schools, 75.

**RAILROAD COMMISSIONERS**, 121.  
 Rangers, 65.  
 Recognition of Texas, 50.  
 Reconstruction, 57.  
 Recorder, 168.  
 Recorders' courts, 136.  
 Reformatory, 83.  
 Regents of University, 127.  
 Regulation of civil relations, 72.  
 Removals, 102.  
 Reserve militia, 67.  
 Resources of Texas, 59.  
 Restrictions on legislation, 111.  
 Revenue, 62.  
 Revenue agent, 126.  
 Revolution, the, 39.  
 Rio Grande, 14.

**ST. DENIS**, 9.  
 Sam Houston, 41, 49.  
 Sam Houston Normal Institute, 78.  
 Sabine river, 18.  
 San Felipe de Austin, 37.

San Jacinto, 42.  
 Santa Anna, 36, 37, 38, 42.  
 Secretary of State, 122.  
 Senate, 105.  
 Sheriff, 147.  
 Slavery, 45.  
 Society, 1.  
 State, the, 2.  
 State board of equalization, 127.  
 State health officer, 125.  
 State superintendent of public instruction, 120.  
 State treasurer, 117.  
 Statutes, the, 4.  
 Suppression of crime, 71.

**TAMAULIPAS**, 12, 14.  
 Taxation, city, 89.  
 Taxation, State, 62.  
 Tax rolls, 148.  
 Texas, the name, 8.  
 Towns and villages, 161.  
 Travis, W. B., 42.  
 Trustees of asylums, 127.  
 Trustees of House of Correction and Reformatory, 127.  
 Tyler, 53.

**UNIVERSITY, THE STATE**, 76.  
 Unorganized counties, 143.

**VETO POWER**, 110.  
 Volunteer guards, 68.  
 Voter, the, 93.

**WAR WITH MEXICO**, 42, 54.  
 Washington on the Brazos, 43.  
 Writ of error, 129.

**ZACATECAS**, 38.



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